

## EXHIBIT 12

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL )  
5 PRESCRIPTION ) MDL No. 2804  
6 OPIATE LITIGATION )  
7 \_\_\_\_\_ ) Case No.  
8 ) 1:17-MD-2804  
9 )  
10 THIS DOCUMENT RELATES ) Hon. Dan A.  
11 TO ALL CASES ) Polster  
12 )

13 TUESDAY, JULY 31, 2018

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Nathan J.  
18 Hartle, held at the offices of Covington &  
19 Burlington, LLP, One City Center, 850 Tenth  
20 Street Northwest, Washington, DC, commencing  
21 at 9:04 a.m., on the above date, before  
22 Carrie A. Campbell, Registered Diplomate  
23 Reporter, Certified Realtime Reporter,  
24 Illinois, California & Texas Certified  
25 Shorthand Reporter, Missouri & Kansas  
Certified Court Reporter.

- - -

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19 TRIAL TECHNICIAN:

COREY SMITH,  
20 Golkow Litigation Services

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(Exhibits attached to the deposition.)

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1 VIDEOGRAPHER: All right. We  
2 are now on the record.

3 My name is Daniel Holmstock. I  
4 am the videographer for Golkow  
5 Litigation Services.

6 Today's date is July 31, 2018.  
7 The time on the video screen is  
8 9:04 a.m.

9 This video deposition is being  
10 recorded at the law firm of Covington  
11 & Burling LLP at 850 Tenth Street,  
12 Northwest, in Washington, DC, in the  
13 matter of In Re: National Prescription  
14 Opiate Litigation. It is pending  
15 before the United States District  
16 Court for the Northern District of  
17 Ohio, Eastern Division.

18 The deponent today is Mr. Nate  
19 Hartle.

20 Will counsel please introduce  
21 themselves and whom they represent.

22 MR. FARRELL: Paul Farrell on  
23 behalf of the plaintiffs.

24 MR. RAFFERTY: Troy Rafferty on  
25 behalf of the plaintiffs.

1 MR. FULLER: Mike Fuller on  
2 behalf of plaintiffs.

3 MR. SUDDATH: Tom Suddath on  
4 behalf of AmerisourceBergen.

5 MR. BOGLE: Brandon Bogle on  
6 behalf of the plaintiffs.

7 MR. PELINI: Craig Pelini,  
8 Prescription Supply.

9 MR. FAUVRE: David Fauvre on  
10 behalf of the Endo and Par  
11 Pharmaceutical defendants.

12 MR. LOVRIEN: Chris Lovrien,  
13 Jones Day, on behalf of Walmart.

14 MR. DAVISON: Bill Davison,  
15 Ropes & Gray, on behalf of  
16 Mallinckrodt, LLC, and SpecGx, LLC.

17 MS. PETERSEN: Miranda  
18 Petersen, Williams & Connolly, on  
19 behalf of Cardinal Health, Inc.

20 MS. MCNAMARA: Colleen  
21 McNamara, Williams & Connolly, on  
22 behalf of Cardinal Health, Inc.

23 MR. LIVINGSTON: Scott  
24 Livingston on behalf of HBC.

25 MR. O'CROININ: Conor

1 O'Croinin, CVS.

2 MS. MONAGHAN: Meghan Monaghan,  
3 Covington & Burling, on behalf of  
4 McKesson and the witness.

5 MS. HENN: Emily Henn,  
6 Covington & Burling, on behalf of  
7 McKesson and the witness.

8 VIDEOGRAPHER: Via telephone?

9 MS. PEDROZA: This is Monica  
10 Pedroza on behalf of Teva  
11 Pharmaceuticals USA, Inc., Cephalon  
12 Inc., Watson Laboratories, Inc.,  
13 Actavis, LLC, and Actavis Pharma, Inc.

14 MR. LAVELLE: John Lavelle on  
15 behalf of Rite Aid.

16 MR. MONTMINY: Brendan Montminy  
17 on behalf Henry Schein, Inc., and  
18 Henry Schein Medical Systems, Inc.

19 MR. AUBEL: Bill Aubel, Jackson  
20 Kelly, on behalf of Miami-Luken, Inc.

21 MR. WEINBERGER: Pete  
22 Weinberger on behalf of the  
23 plaintiffs.

24 VIDEOGRAPHER: The court  
25 reporter is Carrie Campbell, who will

1           now administer the oath to the  
2           witness.

3

4                       NATHAN J. HARTLE,  
5   of lawful age, having been first duly sworn  
6   to tell the truth, the whole truth and  
7   nothing but the truth, deposes and says on  
8   behalf of the Plaintiffs, as follows:

9

10                   DIRECT EXAMINATION

11   QUESTIONS BY MR. FARRELL:

12           Q.       Good morning.

13           A.       Good morning.

14           Q.       Please state your name.

15           A.       My name is Nathan -- I go by  
16   Nate -- John Hartle.

17           Q.       And what is your occupation,  
18   and who is your employer?

19           A.       I'm currently a vice president  
20   of regulatory affairs and compliance for  
21   McKesson Corporation.

22           Q.       How long have you been employed  
23   by McKesson?

24           A.       Since May of 2014.

25           Q.       Have you ever had your

1 deposition taken before?

2 A. 20 years ago when I -- when I  
3 worked at a previous employer for a theft  
4 case, investigative.

5 Q. So if you'll bear with me,  
6 we're going to do a little bit of paperwork  
7 to start -- to start off.

8 A. Okay.

9 Q. The first thing is, is are you  
10 aware that today you'll be testifying not as  
11 Nate Hartle but as McKesson Corporation?

12 A. I am.

13 (McKesson-Hartle Exhibit 1  
14 marked for identification.)

15 QUESTIONS BY MR. FARRELL:

16 Q. I'm going to have marked and  
17 show you McKesson 30(b)(6) Document 1, and  
18 this is the first notice of deposition that  
19 was filed in this case.

20 Have you had a chance to review  
21 this document before today?

22 A. I do. I have copies of this.

23 Q. And you understand that today  
24 I'll be asking you questions about the  
25 subject matters that are in Exhibit 1, and

1 McKesson has been kind enough to designate  
2 you as its spokesman to answer these  
3 questions?

4 MS. HENN: Objection to form.

5 THE WITNESS: I understand.

6 (McKesson-Hartle Exhibit 2  
7 marked for identification.)

8 QUESTIONS BY MR. FARRELL:

9 Q. There's a second notice. We'll  
10 have that marked as Exhibit 2, and it's MCK  
11 30(b)(6)\_02.

12 Have you had a chance to review  
13 this document before today?

14 A. I have.

15 Q. Now, it's my understanding that  
16 McKesson has designated you to testify on  
17 certain subject matters within this document  
18 but not all.

19 Is that your understanding?

20 A. Correct.

21 Q. And those numbers are numbers  
22 9, 14, 16, 17, 18, 19, 20, 21 and 22.

23 Is that your understanding as  
24 well?

25 A. Yes.

1 (McKesson-Hartle Exhibit 3  
2 marked for identification.)

3 QUESTIONS BY MR. FARRELL:

4 Q. The next document, just to be  
5 fair, is I'm going to mark as Exhibit 3  
6 McKesson's objections and responses to each  
7 of these subject matters to create the whole  
8 record, if anybody wants to see it. This  
9 will be McKesson 30(b)(6)\_3.

10 Have you had a chance to review  
11 this document before today?

12 A. I have.

13 Q. It's much longer, isn't it?

14 (McKesson-Hartle Exhibit 4  
15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. And finally, I'm going to show  
18 you McKesson 30(b)(6)\_4, which we've also  
19 labeled as Exhibit 4, which is simply the  
20 redesignation of the date and location and  
21 the subject matters of today's deposition.

22 Have you had a chance to review  
23 this document?

24 A. I have.

25 Q. So that everybody is on the

1 same page, what you'll notice is that there  
2 are a number of different Bates stamps that  
3 we'll see throughout the day. For purposes  
4 of this deposition, what we've done is we've  
5 created a unique and separate Bates stamp  
6 just for your deposition, which can be found  
7 in the top right-hand corner of, I hope, all  
8 of the exhibits today. And some of them,  
9 start MCK 30(b)(6) and then underscore, and  
10 then the first number you'll see is the  
11 sequential number of exhibits, followed by a  
12 dash and then individual page numbers.

13 As we go through later today, I  
14 abandon the normal sequential numbering  
15 system because we're going to bounce around  
16 the timeline a little bit, and instead I use  
17 basically a date indicator in the top  
18 right-hand corner.

19 A. Okay.

20 Q. Now, that being said for  
21 everybody on the telephone, a lot of these  
22 documents have been produced in this  
23 litigation, and what you'll find, to the best  
24 of my ability, is I've always tried to find  
25 the document that contains the MDL Bates

1 stamp in the bottom right-hand corner.  
2 Sometimes it's not been all that successful  
3 because sometimes the document comes from a  
4 prior production and has not yet matriculated  
5 or made its way over to the MDL production.

6 But nonetheless, those are the  
7 three different Bates stamp numbering systems  
8 that we're going to come across today, and  
9 when I talk on the record, I'll try to refer  
10 just to the MDL number.

11 For the people on the telephone  
12 and the record and then for you and I, it'll  
13 be easiest for us to use the top right-hand  
14 corner.

15 A. Okay.

16 Q. When did you first learn that  
17 you would be designated as the corporate  
18 witness for McKesson?

19 A. I don't know the exact date,  
20 but I believe within the last, say, 30 days  
21 or so.

22 Q. Do you know Gary Boggs?

23 A. I do know Gary.

24 Q. Are you aware that he has been  
25 designated as a 30(b)(6) designee in another

1 litigation pending in West Virginia?

2 A. I am aware.

3 Q. Have you read the deposition of  
4 McKesson from that litigation?

5 A. I have.

6 Q. Is there anything in that  
7 deposition that you think is wrong or  
8 factually inaccurate?

9 A. Not that I can recall.

10 Q. Are you prepared, sitting here  
11 today, to adopt or affirm the representations  
12 McKesson made in the West Virginia Attorney  
13 General litigation?

14 MS. HENN: Objection to form.

15 THE WITNESS: Can you ask that  
16 again, please?

17 QUESTIONS BY MR. FARRELL:

18 Q. So it's a little bit of a  
19 Plato's Theory of the Forms right now, but  
20 for all intents and purposes, McKesson is  
21 sitting here in front of me today, and  
22 McKesson was sitting before Mr. Lee Javins  
23 from the West Virginia Attorney General  
24 litigation pending in Boone County several  
25 weeks ago.

1                   And so I'm trying to make the  
2     connection that sitting here today McKesson  
3     affirms or adopts all of its testimony from  
4     the West Virginia litigation.

5                   MS. HENN: Objection to form.

6                   This witness is here on -- designated  
7                   on behalf of McKesson for the topics  
8                   you've indicated.

9                   But you can answer the  
10                  question.

11                  THE WITNESS: I'm not sure how  
12                  to answer that question.

13     QUESTIONS BY MR. FARRELL:

14                  Q.       Okay. So the answer is either  
15     you adopt your testimony from the prior  
16     litigation or you choose not to today.

17                  MS. HENN: Objection to form.

18     QUESTIONS BY MR. FARRELL:

19                  Q.       It's okay either way.

20                  A.       What's that?

21                  Q.       It's okay either way.

22                  A.       Yeah.

23                  Q.       It's just a question of whether  
24     or not I'm going to go back through some of  
25     the other subject matters that Gary Boggs

1 testified to or whether or not I can rely on  
2 that sworn testimony --

3 A. Okay.

4 Q. -- to be applicable today.

5 MS. HENN: Objection to form,  
6 and same comment as I made before.

7 MR. FARRELL: So, Counsel,  
8 that's your second speaking objection,  
9 and so I would ask that you keep your  
10 comments from the record.

11 QUESTIONS BY MR. FARRELL:

12 Q. So it's okay if you do not want  
13 to adopt that prior testimony. We can go  
14 through it today. You may not have the  
15 authority by McKesson to do so.

16 A. Yeah. Again, I'm not sure how  
17 to answer that question specifically.

18 Q. It's not a problem.

19 A. Yeah. Okay.

20 Q. Can you tell me what documents  
21 you reviewed to prepare for today's  
22 testimony?

23 MS. HENN: I'm going to object  
24 to that question as calling for  
25 attorney work product and instruct the

1           witness not to respond if you're being  
2           asked, as I understand you are, for a  
3           list of documents counsel showed you.

4   QUESTIONS BY MR. FARRELL:

5           Q.       Okay. Have all of the  
6           documents that counsel shared with McKesson  
7           been disclosed in the MDL?

8                   MS. HENN: Do you mean to ask  
9           whether the documents Mr. Hartle has  
10          used in preparing for the deposition,  
11          have they been produced?

12                  MR. FARRELL: Yes.

13                  MS. HENN: I believe that to be  
14          the case, yes.

15   QUESTIONS BY MR. FARRELL:

16           Q.       Okay. So is it fair to say  
17          that everything Mr. Hartle reviewed has  
18          actually been produced in the litigation  
19          today?

20                  MS. HENN: That is my  
21          understanding.

22                  MR. FARRELL: The reason I ask  
23          is because when I read Mr. Boggs'  
24          testimony, there are references to a  
25          dozen or so documents that he relied

1           upon and discussed that have not yet  
2           been disclosed in the MDL.

3                   Are you aware of any documents  
4           that are pending that have not been  
5           produced?

6                   MS. HENN: I know that we're  
7           not complete with our productions, but  
8           I'm not -- I don't know what those  
9           documents -- what documents you're  
10          referring to.

11                   MR. FARRELL: So to the extent  
12          that there are future documents that  
13          are produced that are relevant to the  
14          subject matters that are in the  
15          30(b)(6) notices, we reserve our right  
16          to petition the Court for good cause  
17          to extend or continue this deposition.

18                   MS. HENN: I note your  
19          reservation of rights. We may  
20          disagree on the ability of plaintiffs  
21          to continue this deposition, but let's  
22          continue.

23          QUESTIONS BY MR. FARRELL:

24                  Q.       Other than the documents  
25          provided by counsel to you in preparation for

1     this deposition, did you on your own review  
2     any documents?

3             A.       Yes, I reviewed a handful of  
4     documents that are standard with our program.

5             Q.       Okay. Can you tell me which  
6     ones they are?

7             A.       Can I ask a clarifying  
8     question? Can you repeat -- do the documents  
9     that had already -- documents that haven't  
10    been produced? Anything in addition to  
11    what --

12            Q.       That would be a swell place to  
13    start.

14            A.       You know, as I think about  
15    things that I've reviewed, it's standard  
16    operating manuals and procedures, and I think  
17    likely all that -- that stuff is part of what  
18    was produced, so I don't --

19            Q.       That's actually not a very fair  
20    way to place it because you probably haven't  
21    studied the production list yet from  
22    McKesson.

23            A.       No. No.

24            Q.       So let's talk about it in a  
25    different context.

1           A.       Okay.

2           Q.       I'm assuming at some point in  
3     time your counsel provided you some documents  
4     that they culled through based upon the legal  
5     documents, and that, arguably, has been the  
6     subject of some debate between the lawyers on  
7     whether that list is producible or not.

8                    Aside from that, did you  
9     independently go and review anything on your  
10    own, document-wise, to prepare for today?

11          A.       Document-wise? You know, I  
12    looked at files of mine, you know, just, you  
13    know, what I -- what I have in my own, you  
14    know, storage on things that I've done or  
15    projects that I've been on and reviewed just  
16    a variety of different pieces of information  
17    that personally I have.

18          Q.       Where would those files be  
19    located?

20          A.       On my computer, whether it be  
21    e-mails or in documents on my standard  
22    storage on my computer.

23          Q.       Would it be documents from  
24    MCK.NET?

25          A.       I don't think there was

1 anything stored on MCK.NET, our intra -- the  
2 company's intra site.

3 Q. I just wanted to say MCK.NET.

4 A. MCK.NET, yeah.

5 Q. Did you review documents that  
6 were on your personal computer -- that's a  
7 bad question.

8 Did you review documents that  
9 are located on your hard drive of your  
10 computer?

11 A. My work computer?

12 Q. Yes.

13 A. Yes.

14 Q. Would those documents also have  
15 been on the server?

16 A. Could you clarify "server"?

17 Q. Yeah. So in general, when you  
18 have a network of computers, sometimes  
19 there's a central repository where  
20 everybody's computer can pull up files from,  
21 and then there's also on your own computer a  
22 hard drive that nobody else can look at,  
23 except you, from your computer station.

24 A. I understand that, sir, but  
25 I -- you know, in terms of the shared

1 repository that we use in regulatory affairs,  
2 yes, there's documents stored on there that  
3 I've reviewed.

4 Q. What about documents on your  
5 personal hard drive on your office computer?

6 A. Yes, I store documents on my  
7 personal office computer.

8 Q. And those documents you  
9 reviewed prior to today's deposition?

10 MS. HENN: Objection to form.

11 THE WITNESS: There are some  
12 documents.

13 QUESTIONS BY MR. FARRELL:

14 Q. Did you rely on any of those  
15 documents or did any of those documents  
16 refresh your recollection about the subject  
17 matters of today's deposition?

18 A. I used --

19 MS. HENN: Objection to form.

20 Go ahead.

21 THE WITNESS: I used them to  
22 refresh.

23 QUESTIONS BY MR. FARRELL:

24 Q. Okay. How about e-mails? Did  
25 you go and review any old e-mails?

1           A.       I may have looked at a few  
2 e-mails.

3           Q.       Do any of them particularly  
4 stand out?

5           A.       No.

6           Q.       Who would the e-mails have come  
7 from that you were reviewing?

8                   MS. HENN: Objection to form.

9                   THE WITNESS: Could be a  
10 variety of people. I don't recall,  
11 you know, specific e-mails that I  
12 looked at. Could be from my team or  
13 part of a project or...

14 QUESTIONS BY MR. FARRELL:

15           Q.       And I'm sorry if I asked this  
16 before. How long have you been with  
17 McKesson?

18           A.       Since 2014. May of 2014.

19           Q.       You understand that some of the  
20 subject matters today may predate 2014?

21           A.       I do understand that.

22           Q.       Other than documents provided  
23 by your lawyer, where did you find documents  
24 that predated 2014?

25                   MS. HENN: Objection to form.

1 THE WITNESS: They would be on  
2 our shared drive or our space where  
3 regulatory affairs -- it's called the  
4 R drive. That's where we would share  
5 information.

6 QUESTIONS BY MR. FARRELL:

7 Q. Okay. Other than the R drive,  
8 where else would we find those documents?

9 MS. HENN: Objection to form.

10 THE WITNESS: I'm not sure -- I  
11 don't believe I accessed anything else  
12 outside of the hard drive. I know  
13 there's other sites, a share point  
14 site in the past, but I believe mine  
15 were all from the R drive.

16 QUESTIONS BY MR. FARRELL:

17 Q. Have you reviewed any documents  
18 or seen any documents that predate 2006?

19 A. I have.

20 Q. And did you -- where did those  
21 documents come from?

22 I'll make it easier. Did those  
23 documents come from the lawyers?

24 A. I have some in the -- the -- my  
25 preparation over the past few days, but also

1 I do have documents, as I joined McKesson,  
2 that I reviewed and had stored either on my  
3 personal computer, on my work computer, or  
4 the R drive that predate 2006.

5 Q. All right. So we're going to  
6 jump into some topics.

7 A. Okay.

8 Q. Have you read the Masters  
9 Pharmaceutical case?

10 A. Not for a while. I read it  
11 when it first came out, you know.

12 Q. That was June of 2017.

13 So when I start asking  
14 questions, I'm going to do my very best to  
15 keep envisioning McKesson's logo sitting in  
16 front of me instead of Nate Hartle.

17 A. Okay.

18 Q. So let me ask a different way.

19 Is McKesson aware of the  
20 publishing of the Masters Pharmaceutical  
21 case?

22 MS. HENN: Objection to form.

23 THE WITNESS: We are.

24 QUESTIONS BY MR. FARRELL:

25 Q. You're aware that in Masters

1     Pharmaceutical there was a discussion of the  
2     reporting requirement?

3             A.       I am.

4             Q.       And does McKesson acknowledge  
5     that is the law in the United States?

6             MS. HENN:  Objection to form.

7             THE WITNESS:  Could you ask  
8     that question again, please?  Do I --

9     QUESTIONS BY MR. FARRELL:

10            Q.       Sure.

11                    I'm jumping out of order a  
12     little bit, but I'm going to see if I can  
13     actually grab the folder for you.

14                    We're not going to premark this  
15     because that will absolutely mess up my  
16     numbering system, but the top right-hand  
17     corner it's Bates stamped 2017\_06\_30.

18                    And I apologize for the  
19     flopping of the documents across the big  
20     table.

21                    This is Masters Pharmaceutical.  
22     Has McKesson read this document?

23             MS. HENN:  Objection to form.

24             THE WITNESS:  I believe that  
25     several have read this document.

1 QUESTIONS BY MR. FARRELL:

2 Q. Have you read this document in  
3 preparation for today's deposition?

4 A. Did I have it in the past?

5 Q. No.

6 In preparation for today's  
7 deposition, have you read this as McKesson's  
8 corporate designee?

9 A. I did not read this specific  
10 right before the deposition.

11 Q. So it's not -- it's not a  
12 memory contest --

13 A. Right.

14 Q. -- and that's why I brought the  
15 documents --

16 A. Right.

17 Q. -- so that -- so that we can  
18 talk about some of the subject matters.

19 The first thing I'd like you to  
20 do is turn to the Bates stamp page 7. And  
21 you'll notice that there are two columns, and  
22 in the bottom right-hand corner the paragraph  
23 heading number 2.

24 Do you see that?

25 A. Yes.

1           Q.       And midway down through, you'll  
2    see that in the parentheses it says the  
3    "reporting requirement."

4           A.       I see that.

5           Q.       Do you see it?

6           A.       I do.

7           Q.       And then immediately after  
8    that, it describes what the reporting  
9    requirement is. And I don't know if you do  
10   better reading it aloud or reading it to  
11   yourself.

12                    Would you like me to read it,  
13   or would you like to read it?

14          A.       I can read it.

15          Q.       All right. Starting with "the  
16   reporting requirement is a relatively modest  
17   one," will you finish the sentence?

18          A.       I read that sentence.

19          Q.       Okay. Now, will you read it  
20   aloud?

21          A.       "It requires only that a  
22   distributor provide basic information about  
23   certain orders to DEA so that DEA  
24   investigators in the field can aggregate  
25   reports from every point along the legally

1 regulated supply chain and use the  
2 information to ferret out potentially illegal  
3 activity."

4 Q. Does McKesson acknowledge that  
5 it has a duty under the reporting  
6 requirement?

7 MS. HENN: Objection to form.

8 THE WITNESS: Acknowledge that  
9 we -- we, as part of the designing and  
10 operating the suspicious order system,  
11 have to report suspicious orders.

12 QUESTIONS BY MR. FARRELL:

13 Q. That wasn't my question.

14 My question is: Does McKesson  
15 acknowledge the reporting requirement, as you  
16 just read aloud, is a duty owed by McKesson  
17 under the federal regulations and United  
18 States Code?

19 MS. HENN: Objection to form.

20 THE WITNESS: And it's our  
21 responsibility to report suspicious  
22 orders.

23 QUESTIONS BY MR. FARRELL:

24 Q. So the answer to my question is  
25 yes --

1           A.       Yes.

2           Q.       -- no, or I don't know.

3                   MS. HENN:  Objection to form.

4                   THE WITNESS:  It is our -- yes.

5   QUESTIONS BY MR. FARRELL:

6           Q.       Okay.  Now, I want you to go  
7   down, and if you actually flip the page,  
8   we'll cheat to the end, and it's the end of  
9   the first sentence in the top left-hand  
10   corner.  In parentheses it says, "The  
11   shipping requirement."

12                   Do you see that?

13          A.       Where am I looking again?  
14   Sorry.

15          Q.       Very top left-hand corner  
16   there's a --

17          A.       Okay.  Shipping requirement.  I  
18   see that.

19          Q.       All right.  Now what we're  
20   going to do is go to the beginning of that  
21   sentence on the previous page, and it's the  
22   last full sentence.  It starts with "once a  
23   distributor has."

24                   Do you see that sentence?

25          A.       I see that.

1           Q.       Now I'm going to give you a  
2     chance to read it without -- and digest it  
3     for a second.

4           A.       I've read that.

5           Q.       All right. Now, can you read  
6     it aloud for the record?

7           A.       "Once a distributor has  
8     reported a suspicious order, it must make one  
9     of two choices, decline to ship the order or  
10    conduct some due diligence, and if it is able  
11    to determine that the order is not likely to  
12    be diverted into illegal channels, ship the  
13    order."

14          Q.       Does McKesson acknowledge that  
15    the shipping requirement is a duty it owes  
16    under the United States Code and the Code of  
17    Federal Regulations?

18                   MS. HENN: Objection to form.

19                   THE WITNESS: Yes.

20                   (McKesson-Hartle Exhibit 5

21                   marked for identification.)

22    QUESTIONS BY MR. FARRELL:

23          Q.       We'll come back to this later.

24                   All right. The next document  
25    we're going to reference is MCK 30(b)(6)\_5.

1 And so to make this easy so I don't have to  
2 say all those letters and numbers, as we move  
3 forward I'm just going to refer to it exhibit  
4 such-and-such.

5 A. Okay.

6 Q. And when I do, we're talking  
7 about the exhibit for this deposition.

8 I'm going to represent to you  
9 that there are four pages to this exhibit,  
10 that you won't find this exhibit anywhere on  
11 the Internet because I made them myself. I'm  
12 going to give you a second to flip through  
13 them, and what I'm going to represent to you  
14 is that these are four different provisions  
15 from four different United States Code  
16 provisions. So I'll give you a second to  
17 review.

18 A. Okay.

19 Q. So the first thing I want you  
20 to take note of on Exhibit 5, page 1, is the  
21 top left-hand corner, which is the great seal  
22 of our United States Congress.

23 And if you look under the  
24 United States Code, Title 21, for food and  
25 drugs, under Chapter 13, Drug Abuse

1 Prevention and Control, Subchapter 1, Control  
2 and Enforcement, Part A, Introductory  
3 Provisions, this is the beginning of the  
4 Controlled Substances Act.

5 McKesson is aware of and  
6 acknowledges that its role in the chain of  
7 distribution of opioids is governed by the  
8 Controlled Substances Act, agreed?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. FARRELL:

12 Q. Now, I'm going to have you look  
13 down all the way at all those letters and  
14 numbers at the very bottom, Public Law  
15 91-513, Title 2. And the date there is  
16 October 27, 1970.

17 McKesson is aware that the  
18 Controlled Substances Act has been in force  
19 and effect since 1970, correct?

20 MS. HENN: Objection to form.

21 THE WITNESS: Correct.

22 QUESTIONS BY MR. FARRELL:

23 Q. So Section 801, which is on the  
24 first page, is Congressional findings and  
25 declarations regarding controlled substances.

1 Do you see that?

2 A. I do.

3 Q. And it says, "The Congress  
4 agrees makes the following findings and  
5 declarations."

6 And to be fair, paragraph 1,  
7 will you read it aloud?

8 A. "Many of the drugs included  
9 within this subchapter have a useful and  
10 legitimate medical purpose and are necessary  
11 to maintain the health and general welfare of  
12 the American people."

13 Q. Does McKesson acknowledge and  
14 agree with that finding?

15 MS. HENN: Objection to form.

16 THE WITNESS: Yes.

17 QUESTIONS BY MR. FARRELL:

18 Q. Now, will you read Section 2  
19 aloud, please?

20 A. "The illegal importation,  
21 manufacture, distribution and possession and  
22 improper use of controlled substances have  
23 substantially and detrimentally effect --  
24 have a substantial and detrimental effect on  
25 the health and general welfare of the

1 American people."

2 Q. Does McKesson acknowledge and  
3 agree with those findings?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. So you'll notice in paragraph 2  
8 it includes distribution, correct?

9 A. Correct.

10 Q. And McKesson is engaged in the  
11 distribution business, agreed?

12 A. We are.

13 Q. And that if they do not follow  
14 the law as provided by the US code and the  
15 Code of Federal Regulations, it has a  
16 substantial and detrimental effect on the  
17 health and general welfare of the American  
18 people, agreed?

19 MS. HENN: Objection to form.

20 THE WITNESS: Could you restate  
21 that question for me, please?

22 QUESTIONS BY MR. FARRELL:

23 Q. Yeah.

24 You agree with paragraph 2 --

25 A. Right.

1 Q. -- as McKesson's  
2 representative, correct?

3 A. Correct.

4 Q. And what it says is that the  
5 illegal, and one of the words is  
6 distribution, of controlled substances has a  
7 substantial and detrimental effect on the  
8 health and general welfare of the American  
9 people.

10 I'm asking you if McKesson  
11 agrees and acknowledges with this finding by  
12 Congress in 1970.

13 MS. HENN: Objection to form.

14 THE WITNESS: Yes, that the  
15 illegal distribution can -- could  
16 potentially have an impact on the  
17 American --

18 QUESTIONS BY MR. FARRELL:

19 Q. Well, it doesn't say  
20 "potential" in paragraph 2, does it?

21 A. It doesn't.

22 Q. It says that if you break the  
23 law, it has a substantial and detrimental  
24 effect on the health and general welfare of  
25 the American people.

1           A.       That's what it says, correct.

2           Q.       Does McKesson agree and  
3       acknowledge that finding?

4                   MS. HENN:   Objection to form.

5                   THE WITNESS:   Yes.

6       QUESTIONS BY MR. FARRELL:

7           Q.       Now, if you flip to page 2,  
8       this is section A 12 of the Controlled  
9       Substances Act, and what it says is it places  
10      drugs into one of several categories.

11                   Is McKesson aware of the  
12      scheduling of controlled substances?

13           A.       We are.

14           Q.       Okay.   And what we're dealing  
15      with in this litigation primarily today are  
16      Schedule II drugs, correct?

17           A.       Correct.

18           Q.       Now, there was a period of time  
19      when certain hydrocodone combination products  
20      were Schedule III, but they've since been  
21      reclassified as Schedule II, agreed?

22           A.       Agreed.

23           Q.       And McKesson picked up a book  
24      of business when that happened on the HCPs,  
25      agreed?

1 MS. HENN: Objection to form.

2 THE WITNESS: Can you rephrase  
3 the book of business and the question  
4 a little bit?

5 QUESTIONS BY MR. FARRELL:

6 Q. Yeah, that was a little too  
7 country.

8 Is McKesson aware that its  
9 sales of hydrocodone combination products  
10 rose following the reclassification of those  
11 opioids from Schedule III to Schedule II?

12 A. Yes.

13 Q. So nonetheless, when we're  
14 talking about these products, I'm referencing  
15 Schedule II for today.

16 A. Understood.

17 Q. So the Schedule II has a  
18 definition, does it not, under the United  
19 States Code?

20 A. It does.

21 Q. There's three aspects to it.  
22 Do you see those three aspects?

23 A. I do.

24 Q. Could you read aspect A?

25 A. "The drug or other substance

1 has a high potential for abuse."

2 Q. McKesson is aware since 1970  
3 that it was engaging in business of  
4 distributing Schedule II controlled  
5 substances which have a high potential for  
6 abuse, agreed?

7 A. Agreed.

8 Q. And you agree that the opioids,  
9 whether they're Schedule II or formerly  
10 Schedule III, are drugs that have a high  
11 potential for abuse?

12 A. Agree.

13 Q. McKesson knows this?

14 A. We do.

15 Q. And McKesson has known this  
16 from the very beginning of their decision to  
17 distribute controlled substances?

18 A. Agreed.

19 Q. Would you read paragraph B,  
20 please?

21 A. "The drug or other substance  
22 has a currently accepted medical use and  
23 treatment in the United States or a currently  
24 accept medical use with severe restrictions."

25 Q. Does McKesson agree and

1     acknowledge with this statement from  
2     Congress?

3                     MS. HENN:  Objection to form.

4                     THE WITNESS:  Yes.

5     QUESTIONS BY MR. FARRELL:

6             Q.       Now, read paragraph C, please.

7             A.       "Abuse of a drug or other  
8     substances may lead to severe psychological  
9     or physical dependence."

10            Q.       Does McKesson agree and  
11     acknowledge this finding?

12                    MS. HENN:  Objection to form.

13                    THE WITNESS:  Yes.

14     QUESTIONS BY MR. FARRELL:

15            Q.       So just to be clear, when we're  
16     talking about controlled substances in this  
17     litigation, we're talking about opiates and  
18     opioids, agreed?

19            A.       Agreed.

20            Q.       And what these are, are these  
21     are derivatives of opium in the form of a  
22     pill, agreed?

23                    MS. HENN:  Objection to form.

24                    THE WITNESS:  It's multiple  
25     formulations but, yes.

1 QUESTIONS BY MR. FARRELL:

2 Q. What we start with is we start  
3 with the poppy plant, agreed?

4 MS. HENN: Objection to form.

5 THE WITNESS: Agreed.

6 QUESTIONS BY MR. FARRELL:

7 Q. Well -- and it's okay if -- I'm  
8 just trying to figure out what McKesson  
9 knows.

10 McKesson distributes pills from  
11 a manufacturer to pharmacies. That's what  
12 they do, yes?

13 A. Correct.

14 Q. The pills that you're  
15 distributing, you're aware they originally  
16 come from the poppy plant?

17 MS. HENN: Objection to form.  
18 Outside the scope.

19 THE WITNESS: I'm not an expert  
20 in the medical field and design, but I  
21 understand that, yes.

22 QUESTIONS BY MR. FARRELL:

23 Q. Does McKesson acknowledge or  
24 appreciate that what they're selling are  
25 opium pills?

1 MS. HENN: Objection to form.

2 THE WITNESS: We understand

3 how -- what's in the pills, so, yes.

4 QUESTIONS BY MR. FARRELL:

5 Q. Okay. So the opium can be  
6 manipulated by the manufacturers to be  
7 opiate-like? Opiate-like, right? There's  
8 opiates and opioid, or opiate-like, and  
9 that's how you get hydrocodone and oxycodone  
10 and all the different types of opium pills,  
11 agreed?

12 A. Correct.

13 MS. HENN: Objection to form.

14 QUESTIONS BY MR. FARRELL:

15 Q. So when I say "opium pills,"  
16 what I'm talking about is the big  
17 classification of all of these pills derived  
18 from the poppy plant.

19 Is that fair?

20 A. Understood.

21 Q. All right. And when we talk  
22 about any of the individual pills, whether  
23 it's hydrocodone or oxycodone, those all fall  
24 within the opium pill umbrella, right?

25 MS. HENN: Objection to form.

1 THE WITNESS: Yes.

2 QUESTIONS BY MR. FARRELL:

3 Q. So when McKesson is  
4 distributing opium pills, it knows and  
5 understands that these pills have a high  
6 potential for abuse?

7 A. We do.

8 Q. Now, they also -- you also --  
9 McKesson understands that these pills do have  
10 an accepted medical use in treatment, but  
11 they have severe restrictions, agreed?

12 MS. HENN: Objection to form.

13 THE WITNESS: We understand the  
14 language, yes.

15 QUESTIONS BY MR. FARRELL:

16 Q. You understand the language of  
17 paragraph B?

18 A. Right.

19 Q. Opium pills have a place in  
20 current medical practice?

21 A. Yes.

22 Q. But abusing opium pills may  
23 lead to severe psychological and physical  
24 dependence?

25 A. Correct.

1           Q.       McKesson understands and  
2       acknowledges this?

3           A.       Yes.

4           Q.       And that's why the unlawful  
5       distribution of these opium pills, relating  
6       back to page 1, has a substantial and  
7       detrimental effect on the health and general  
8       welfare of the American people.

9                       Does McKesson acknowledge that?

10                    MS. HENN:  Objection to form.

11                    THE WITNESS:  Yes.

12       QUESTIONS BY MR. FARRELL:

13           Q.       Now we're going to flip to  
14       page 3, which is Section 821, rules and  
15       regulations.

16                       Will you please read this  
17       aloud?

18           A.       "The Attorney General is  
19       authorized to promulgate rules and  
20       regulations and to charge reasonable fees  
21       relating to the registration and control of  
22       the manufacture, distribution and dispensing  
23       of controlled substances and to listed  
24       chemicals."

25           Q.       All right.  Do you see the date

1 of this?

2 A. I do.

3 Q. What is the date?

4 A. October 27, 1970.

5 Q. Does McKesson acknowledge that  
6 Congress gave the United States Attorney  
7 General the authority to promulgate rules  
8 regarding the distribution of opium pills?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. FARRELL:

12 Q. Now let's flip to the next  
13 page. This is the -- this is where we'll be  
14 spending most of our time today. This is  
15 page 4, Section 823.

16 This is from the United States  
17 Code, and it includes, as you'll see down in  
18 paragraph 1, what Congress has said is  
19 McKesson's duty. I'd like you to first read  
20 that to yourself.

21 A. I've read it.

22 Q. All right. Does McKesson  
23 acknowledge that it has a duty to maintain  
24 effective control against diversion of opium  
25 pills as mandated by Congress?

1 MS. HENN: Objection to the  
2 form.

3 THE WITNESS: We do.

4 (McKesson-Hartle Exhibit 6  
5 marked for identification.)

6 QUESTIONS BY MR. FARRELL:

7 Q. Now this is a much bigger  
8 document, but I promise we won't go through  
9 every page.

10 This is going to be marked as  
11 Exhibit 6 in the bottom right-hand corner,  
12 and in the top right-hand corner it's MCK  
13 30 (b) (6) \_6.

14 For our fans following on the  
15 telephone, this is the Congressional history  
16 that can be found at 91-1444. It is Public  
17 Law 91-513.

18 Do you remember when we were  
19 looking at the United States Code and it  
20 referenced Public Law 91-513 from Exhibit 5?

21 A. Yes.

22 Q. This is that document, I'll  
23 represent to you.

24 A. Okay.

25 Q. And what this is, is this is

1 the Congressional history of all those codes  
2 that we just walked through. And I'm not  
3 going to ask you to read the entire document  
4 because I've highlighted certain sections for  
5 you.

6 The first thing I'd like you to  
7 do is I'd like for you to turn to Bates stamp  
8 page 5. And while you read the document to  
9 yourself, I'm going to read it out loud to  
10 save you some time.

11 A. Okay.

12 Q. Under Title 2, Control and  
13 Enforcement, it states, "The bill provides  
14 for control by the Justice Department of  
15 problems related to drug abuse through  
16 registration of manufacturers, wholesalers,  
17 retailers and all others in the legitimate  
18 distribution chain and makes transactions  
19 outside the legitimate distribution chain  
20 illegal."

21 Does McKesson acknowledge this  
22 finding from Congress?

23 MS. HENN: Objection to form.

24 THE WITNESS: Yes.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. I'm going to have you to turn  
3 to Bates stamp page 8. And again, these are  
4 my highlights. Congress didn't highlight  
5 this in 1970; Paul Junior did. So while you  
6 read it, I'm going to read it out loud.

7 "The bill was designed to  
8 improve the administration and regulation of  
9 the manufacturing, distribution and  
10 dispensing of controlled substances by  
11 providing for a closed system of drug  
12 distribution for legitimate handlers of such  
13 drugs. Such a closed system should  
14 significantly reduce the widespread diversion  
15 of these drugs out of the legitimate channels  
16 into the illicit market, while at the same  
17 time providing the legitimate drug industry  
18 with a unified approach to narcotic and  
19 dangerous drug control."

20 Does McKesson acknowledge the  
21 truth of this finding by Congress?

22 MS. HENN: Objection to form.

23 THE WITNESS: Yes.

24 QUESTIONS BY MR. FARRELL:

25 Q. So let's just talk about this

1 for a minute.

2 McKesson understands that in  
3 1970 Congress created a closed system,  
4 agreed?

5 A. Agree.

6 Q. What a closed system means is  
7 that laissez-faire economics don't apply,  
8 agreed?

9 MS. HENN: Objection to form.

10 THE WITNESS: Have to refresh  
11 my memory on laissez-faire economics.

12 QUESTIONS BY MR. FARRELL:

13 Q. It's just a fancy French word  
14 for "hands off." The government is  
15 intervening in the marketplace of the chain  
16 of distribution for opium pills, agreed?

17 A. For controlled substances.

18 Q. Well, for all controlled  
19 substances --

20 A. Correct.

21 Q. -- but today we're talking  
22 about opium pills.

23 A. Understood.

24 Q. So the controlled substances  
25 are in a chain of distribution that are

1 closed off to the rest of the marketplace.

2 McKesson acknowledges that?

3 MS. HENN: Objection to form.

4 THE WITNESS: Correct. It's a  
5 closed system.

6 QUESTIONS BY MR. FARRELL:

7 Q. And in order to participate in  
8 the closed system, you have to be one of the  
9 select few that gets a registration  
10 certificate from the DEA, agreed?

11 A. Agreed.

12 Q. And the reason Congress did  
13 this was to reduce diversion. Does McKesson  
14 acknowledge that?

15 MS. HENN: Objection to form.

16 THE WITNESS: Yes, I believe  
17 that was the overall intent.

18 QUESTIONS BY MR. FARRELL:

19 Q. So it's creating rules to  
20 prevent diversion to the best of their  
21 ability. McKesson acknowledges that fact?

22 MS. HENN: Objection to form.

23 THE WITNESS: Yes.

24 QUESTIONS BY MR. FARRELL:

25 Q. Because if McKesson doesn't

1 follow the law, then diversion is likely.

2 You agree with that statement?

3 MS. HENN: Objection to form.

4 THE WITNESS: I don't know if

5 I'd say -- always characterize it as

6 likely all the time, but diversion can

7 happen.

8 QUESTIONS BY MR. FARRELL:

9 Q. Okay. Well, in this specific  
10 provision, the United States Congress passed  
11 a law to close the system of distribution and  
12 enact laws to reduce the widespread diversion  
13 of these drugs. You agree with that? That's  
14 the purpose of this law?

15 MS. HENN: Objection to form.

16 THE WITNESS: Yes.

17 QUESTIONS BY MR. FARRELL:

18 Q. So the idea here is that -- to  
19 close the system of distribution so that we  
20 keep these dangerous opium pills inside the  
21 legitimate market for medical care, agreed?

22 A. Agreed.

23 Q. And that's why we have these  
24 laws enacted, so that we can do our best to  
25 keep these drugs to the patients that need

1       them, agreed?

2               A.       Agreed.

3               Q.       And if you don't follow those  
4       laws, then what happens is we have diversion  
5       into the illicit market?

6                       MS. HENN:   Objection to form.

7                       THE WITNESS:   That can happen  
8               if you don't follow those laws.

9       QUESTIONS BY MR. FARRELL:

10              Q.       And that's the reason Congress  
11       created the laws as stated in this finding?

12                      MS. HENN:   Objection to form.

13                      THE WITNESS:   Correct.

14       QUESTIONS BY MR. FARRELL:

15              Q.       Next I'm going to have you flip  
16       to page 11.   And I just highlighted one  
17       sentence in here.   And it says, "The price  
18       for participation in this traffic," which is  
19       illicit drug trafficking, "should be  
20       prohibitive."

21                      Do you see that sentence?

22              A.       I see that.

23              Q.       Does McKesson acknowledge that?

24                      MS. HENN:   Objection to form.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Does McKesson acknowledge that  
3 sentence to be true?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. It just makes sense, right? If  
8 you're going to punish somebody and the  
9 punishment isn't very severe, they're likely  
10 to what?

11 MS. HENN: Objection to form.

12 THE WITNESS: To do it again.

13 QUESTIONS BY MR. FARRELL:

14 Q. Why?

15 A. There's no penalty or  
16 accountability.

17 Q. And so by making the penalty  
18 prohibitive, what does it do?

19 MS. HENN: Objection to form.

20 THE WITNESS: Could you ask the  
21 question in a -- again? What --

22 QUESTIONS BY MR. FARRELL:

23 Q. If you make the penalty  
24 prohibitive, then what happens?

25 MS. HENN: Objection to form.

1 MR. MONTMINY: Objection to  
2 form. Calls for speculation. This is  
3 Brandon Montminy for Henry Schein.

4 MS. HENN: And just to note for  
5 everyone's knowledge, many of you know  
6 this, but in the deposition protocol,  
7 one defendant's objection counts for  
8 all defendants, so there's no need to  
9 do depositions {sic} if I'm done them.  
10 But if on the phone you can't hear me,  
11 I can try to speak up.

12 MR. FARRELL: So that means  
13 you're not allowed to object to this  
14 question because Henry Schein objected  
15 to it.

16 MS. HENN: I already did, I'm  
17 afraid to say. There are two.

18 QUESTIONS BY MR. FARRELL:

19 Q. So back to my original  
20 question.

21 A. Yeah, could you put it in  
22 simpler terms in --

23 Q. Yeah. Let me put it --

24 A. Just so I know.

25 Q. -- in other terms.

1 A. Yeah.

2 Q. Let's say that a speeding  
3 ticket is a dollar. What would happen across  
4 America if a speeding ticket was a dollar?

5 MS. HENN: Objection to form.

6 QUESTIONS BY MR. FARRELL:

7 Q. What would happen?

8 A. It wouldn't hold the same  
9 weight or it wouldn't -- it may not deter  
10 people from speeding.

11 Q. What if the speeding ticket was  
12 a million dollars? What would that do?

13 MS. HENN: Objection to form.

14 THE WITNESS: I'm just  
15 guessing, but likely people would not  
16 speed.

17 QUESTIONS BY MR. FARRELL:

18 Q. Because the penalty would be  
19 prohibitive, agreed?

20 A. Agreed.

21 Q. Like not to be cute, but  
22 McKesson was fined \$13 million in 2008 and  
23 then was fined again in 2017 \$150 million.

24 Do you think that the second  
25 fine was intended to be more prohibitive than

1 the first fine?

2 MS. HENN: Objection to form.

3 THE WITNESS: I believe so.

4 QUESTIONS BY MR. FARRELL:

5 Q. All right. Now, let's go to  
6 Bates stamp page 26.

7 And it says, "Titles 2 and 3 of  
8 the bill deal with law enforcement aspect of  
9 drug abuse and provide authority for the  
10 Department of Justice to keep track of all  
11 drugs subject to abuse, manufactured or  
12 distributed in the United States, in order to  
13 prevent diversion of these drugs from  
14 legitimate channels of commerce."

15 Does McKesson acknowledge the  
16 truth of that statement?

17 MS. HENN: Objection to form.

18 THE WITNESS: Yes.

19 QUESTIONS BY MR. FARRELL:

20 Q. This is just another reflection  
21 of the US Code that we were reading that  
22 Congress is giving the authority to the  
23 Department of Justice to enact safety rules  
24 in order to prevent the diversion of  
25 controlled substances, including opium pills,

1 from legitimate channels into illegitimate  
2 channels.

3 Does McKesson acknowledge that?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. Flip to page 27, the very next  
8 page.

9 It says, "The legislation  
10 provides that all persons engaged in a  
11 legitimate distribution chain involving drugs  
12 included in one of the schedules under the  
13 bill must be registered with the Attorney  
14 General."

15 So again, this is bringing full  
16 circle the authority of the Attorney General  
17 and the Department of Justice to promulgate  
18 rules for those that wish to engage in the  
19 closed system of distribution for controlled  
20 substances, and McKesson acknowledges that?

21 MS. HENN: Objection to form.

22 THE WITNESS: Yes.

23 QUESTIONS BY MR. FARRELL:

24 Q. Now flip to page 34. And I  
25 would like for you to please read that

1 provision that's highlighted aloud.

2 A. One second.

3 "The illegal importation,  
4 manufacture, distribution and possession and  
5 improper use of controlled substances have a  
6 substantial detrimental effect on the  
7 public's health and general welfare."

8 Q. Does McKesson acknowledge the  
9 truth of that statement?

10 A. Yes.

11 Q. So if somebody in the chain of  
12 distribution breaks the law, it has a  
13 substantial detrimental effect on the public  
14 health and general welfare, agreed?

15 MS. HENN: Objection to form.

16 THE WITNESS: It can.

17 QUESTIONS BY MR. FARRELL:

18 Q. Now go to page 44.

19 Again, this is another  
20 reiteration that Congress authorizes the  
21 Attorney General to "promulgate rules and  
22 regulations and to charge reasonable fees  
23 relating to the registration and control of  
24 the manufacture, distribution and dispensing  
25 of substances covered by the Act."

1 Does McKesson acknowledge the  
2 authority of the Department of Justice and  
3 the Attorney General to do so?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. FARRELL:

7 Q. Now flip to page 45, the very  
8 next one. This is a little bit longer, so  
9 I'm going to give you a chance to read it  
10 real quick.

11 A. Okay. I've read it.

12 Q. So I'm going to read it aloud,  
13 and I'm going to stop and ask you some  
14 questions.

15 It's -- Section B of  
16 Section 303 states that the Attorney General,  
17 when issuing registrations, is going to  
18 consider several factors, agreed?

19 A. Can you say that again? I was  
20 looking at --

21 Q. Yeah, I was trying to summarize  
22 the first four lines.

23 A. Yeah.

24 Q. Basically, what it really boils  
25 down to is this is a reiteration of the

1 findings behind the statute that I showed you  
2 regarding maintaining effective control.

3 So if you drop down to where it  
4 says number 1 at the bottom of the page --  
5 can you start reading there?

6 A. Yeah. Okay.

7 Q. Will you read that aloud,  
8 please, starting with "maintenance of  
9 effective controls"?

10 A. "Maintenance of effective  
11 controls against diversion of particular  
12 controlled substances into other than  
13 legitimate medical, scientific and industrial  
14 channels."

15 Q. All right. So again, what  
16 we're talking about is the enactment of rules  
17 to prevent diversion?

18 A. Correct.

19 Q. Last factor, factor 5, would  
20 you read that?

21 A. "Such other factors as may be  
22 relevant to and consistent with the public  
23 health and safety."

24 Q. Does McKesson acknowledge that  
25 Congress gave the Department of Justice the

1 authority to promulgate rules which govern  
2 McKesson so that they maintain effective  
3 controls against diversion, and to adopt any  
4 other rule they want that may be relevant and  
5 consistent with public health and safety?

6 MS. HENN: Objection to form.

7 THE WITNESS: Agree.

8 QUESTIONS BY MR. FARRELL:

9 Q. I just want to make sure that  
10 we start off with the premise that the rules  
11 we're about to go through aren't designed  
12 to -- let me ask it in a better way.

13 The rules that we're about to  
14 get into, McKesson acknowledges, are designed  
15 with the primary purpose of preventing  
16 diversion?

17 MS. HENN: Objection to form.

18 THE WITNESS: Correct.

19 QUESTIONS BY MR. FARRELL:

20 Q. Because diversion impacts  
21 public health and safety, and McKesson  
22 acknowledges that?

23 A. Yes.

24 MS. HENN: Objection to form.

25 (McKesson-Hartle Exhibit 7

1 marked for identification.)

2 QUESTIONS BY MR. FARRELL:

3 Q. The next exhibit we'll have is  
4 marked as Exhibit 7, and correspondingly in  
5 the top right-hand corner it's MCK  
6 30(b)(6)\_07-01, and it's just one page.

7 Once we get through this  
8 section, we can take a break if you like.

9 All right. So what I'm going  
10 to represent to you is that you will not find  
11 this anywhere on the Internet either because  
12 I made it. In the top left-hand corner is  
13 the Department of Justice seal, and in the  
14 top right-hand corner is the Drug Enforcement  
15 Administration seal, and in the middle is  
16 where you can trace down the rules that  
17 govern McKesson.

18 Does McKesson acknowledge that  
19 Title 21 CFR 1301.74 governs its conduct with  
20 the distribution of controlled substances,  
21 including opium pills?

22 MS. HENN: Objection to form.

23 THE WITNESS: Yes.

24 QUESTIONS BY MR. FARRELL:

25 Q. Part B is what we're going to

1 spend the rest of the day on.

2 Have you read part B before?

3 A. Yes.

4 Q. Does McKesson acknowledge that  
5 part B governs its conduct?

6 MS. HENN: Objection to form.

7 THE WITNESS: Yes.

8 QUESTIONS BY MR. FARRELL:

9 Q. Does McKesson acknowledge that  
10 for it to be lawfully carrying out its job of  
11 dispensing controlled substances and opium  
12 pills, it must follow paragraph B?

13 MS. HENN: Objection to form.

14 THE WITNESS: Yes.

15 QUESTIONS BY MR. FARRELL:

16 Q. And if McKesson does not follow  
17 paragraph B, its conduct is illegal?

18 MS. HENN: Objection to form.

19 THE WITNESS: Yes.

20 QUESTIONS BY MR. FARRELL:

21 Q. To make it clear --

22 A. Yeah.

23 Q. -- if McKesson follows  
24 paragraph B, its conduct is legal?

25 A. Correct.

1 Q. And if McKesson does not follow  
2 paragraph B, its conduct is illegal?

3 MS. HENN: Objection to form.

4 THE WITNESS: Correct.

5 QUESTIONS BY MR. FARRELL:

6 Q. And so bringing full circle, we  
7 understand that the purpose of this  
8 regulation, one of them, is the prevention of  
9 diversion, correct?

10 MS. HENN: Objection to form.

11 THE WITNESS: Correct.

12 QUESTIONS BY MR. FARRELL:

13 Q. So if you engage in illegal  
14 conduct and violate paragraph B, the result  
15 of that is diversion?

16 MS. HENN: Objection to form.

17 QUESTIONS BY MR. FARRELL:

18 Q. It's the whole reason this law  
19 was enacted?

20 MS. HENN: Objection to form.

21 QUESTIONS BY MR. FARRELL:

22 Q. Does McKesson acknowledge that?

23 A. Could you ask the specific  
24 question again?

25 MS. HENN: Objection to form.

1 QUESTIONS BY MR. FARRELL:

2 Q. Yeah, it got very complicated  
3 because it was a compound question with  
4 compound objections.

5 Does McKesson acknowledge that  
6 paragraph B that we're looking at here is  
7 intended to prevent diversion?

8 MS. HENN: Objection to form.

9 THE WITNESS: Yes.

10 QUESTIONS BY MR. FARRELL:

11 Q. And that if you follow -- if  
12 McKesson abides by paragraph B, its conduct  
13 is legal and diversion is prevented?

14 MS. HENN: Objection to form.

15 THE WITNESS: Agreed.

16 QUESTIONS BY MR. FARRELL:

17 Q. And if McKesson does not abide  
18 by paragraph B, its conduct is illegal and  
19 the result could be diversion?

20 MS. HENN: Objection to form.

21 THE WITNESS: Agree. The  
22 result could be diversion.

23 QUESTIONS BY MR. FARRELL:

24 Q. Well, if McKesson is  
25 distributing orders of unusual size, could it

1 be anything other than diversion?

2 MS. HENN: Objection to form.

3 THE WITNESS: It could.

4 QUESTIONS BY MR. FARRELL:

5 Q. All right. Give me some  
6 examples.

7 MS. HENN: Objection to form.

8 THE WITNESS: Maybe the best --  
9 a customer adds, you know -- their  
10 business model changes or they add --  
11 for example, a pharmacy may add  
12 contracts with multiple long-term care  
13 facilities and require that they now  
14 dispense more for legitimate reasons,  
15 so they could order more in that  
16 context.

17 QUESTIONS BY MR. FARRELL:

18 Q. So what's the purpose of the  
19 Department of Justice making McKesson follow  
20 paragraph B?

21 MS. HENN: Objection to form.

22 THE WITNESS: Say that again?

23 What's the purpose of why we  
24 follow that? To try to prevent  
25 diversion.

1 MS. HENN: Mr. Farrell, we've  
2 been going over an hour. Would this  
3 be a good time for a five-minute  
4 break?

5 MR. FARRELL: Let me close up  
6 this thing and then we'll get there.

7 MS. HENN: All right.

8 MR. FARRELL: Is that okay?

9 MS. HENN: If it's all right  
10 with the witness.

11 THE WITNESS: It's okay.

12 QUESTIONS BY MR. FARRELL:

13 Q. Okay. At the bottom of  
14 Exhibit 7, do you see the numbers in the  
15 brackets?

16 A. I do.

17 Q. 36 FR 7778. Do you know what  
18 that means?

19 A. I don't know off the top of my  
20 head.

21 Q. What about the letters and  
22 numbers after that; do you know what that  
23 means?

24 A. The date?

25 Q. Yes.

1           A.       Of course I know the date.

2           Q.       Yes.

3                   Does McKesson acknowledge that  
4   21 CFR Section 1301.74 has been in force and  
5   effect since 1971?

6           MS. HENN:  Objection to form.

7           THE WITNESS:  Yes.

8                   (McKesson-Hartle Exhibit 8  
9           marked for identification.)

10   QUESTIONS BY MR. FARRELL:

11           Q.       Just to make sure, I actually  
12   pulled 36 Federal Register 778.  I'm going to  
13   have it marked as Exhibit 8.

14                   And I'm not going to ask you to  
15   read the whole thing because I was kind  
16   enough to highlight for you Bates stamp  
17   page 10.

18                   And this is from 1971, and this  
19   is the document in our United States Archives  
20   which adopts the language that we just read  
21   in 21 CFR 1301.74.

22                   Does McKesson acknowledge this  
23   is the law and it has been the law since  
24   1971?

25           MS. HENN:  Objection to form.

1 THE WITNESS: Yes.

2 QUESTIONS BY MR. FARRELL:

3 Q. The language that you just read  
4 in paragraph B, is it the same language  
5 that's in the CFR provision that I showed  
6 you?

7 A. It's similar. Not word for  
8 word.

9 Q. Okay. Is there any meaningful  
10 difference?

11 A. No.

12 Q. You'll acknowledge that that is  
13 the law today as reflected in the 2016  
14 version that we're not going to have marked  
15 but I'm going to show and ask for -- for --  
16 you can just trust me on it if you'd like,  
17 but you acknowledge that in 20 -- it's the  
18 law today, the same?

19 MR. SUDDATH: Objection.

20 QUESTIONS BY MR. FARRELL:

21 Q. Well, and just to be sure, what  
22 I did was I went and ordered the CFR from  
23 every year between 1971 and this year, and I  
24 looked at every single one of them just to  
25 make sure that the law is, and always has

1     been, what it says in Masters Pharmaceutical,  
2     including in 1996 when OxyContin was  
3     launched.

4                     So does McKesson acknowledge  
5     that the CFR provision in McKesson {sic} is  
6     and always has been the law governing  
7     McKesson's conduct since 1971?

8                     MS. HENN:  Objection to form.

9                     THE WITNESS:  Yes.

10    QUESTIONS BY MR. FARRELL:

11             Q.     I'm sorry.  I misspoke.

12                     So does McKesson acknowledge  
13    that the CFR provision we cited in the  
14    Masters Pharmaceutical case is and always has  
15    been the law governing McKesson's conduct  
16    since 1971?

17                     MS. HENN:  Objection to form.

18                     THE WITNESS:  Can I read what  
19             was in the Masters case again?

20                     (McKesson-Hartle Exhibit 9  
21             marked for identification.)

22    QUESTIONS BY MR. FARRELL:

23             Q.     Absolutely.

24                     And at this point if you hand  
25    it back to me, this'll be a good point for us

1 to mark it as Exhibit 9.

2 A. So your question again?

3 Q. Yeah.

4 Does McKesson acknowledge that  
5 the CFR provision cited in Masters  
6 Pharmaceutical case, which is 21 CFR  
7 1301.74 B, is and always has been the law  
8 governing McKesson's conduct since 1971?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes.

11 MR. FARRELL: And  
12 unfortunately, I'm not going to be  
13 able to get all of my pretty-colored  
14 books on the videotape.

15 Let the record reflect that the  
16 office of the Federal Register has a  
17 kaleidoscope of colors that it uses  
18 for the front cover of all of its CFR  
19 booklets.

20 And with that, we'll take our  
21 first break.

22 VIDEOGRAPHER: The time is  
23 10:23 a.m. We're going off the  
24 record.

25 (Off the record at 10:23 a.m.)

1 VIDEOGRAPHER: The time is  
2 10:40 a.m., and we're back on the  
3 record.

4 QUESTIONS BY MR. FARRELL:

5 Q. I forgot to warn you before the  
6 break, but during the break, did you have any  
7 meaningful conversations with your counsel  
8 about your testimony?

9 MS. HENN: Objection to form.

10 THE WITNESS: No.

11 QUESTIONS BY MR. FARRELL:

12 Q. Did you talk about your  
13 testimony at all?

14 MS. HENN: Objection to form.

15 THE WITNESS: Not really my  
16 testimony, just --

17 MS. HENN: And I'm just going  
18 to instruct the witness not to divulge  
19 what we talked about. I don't think  
20 that's an appropriate question. I  
21 think you got the answer you were  
22 looking for.

23 MR. FARRELL: I think I almost  
24 got the answer I'm looking for.  
25

1 QUESTIONS BY MR. FARRELL:

2 Q. Did you talk to your lawyer  
3 about the substance of your testimony during  
4 the break?

5 MS. HENN: And I'll instruct  
6 the witness not to divulge particulars  
7 of what we talked about.

8 But you may answer that  
9 question yes or no.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. FARRELL:

12 Q. Okay. What did you talk about?

13 MS. HENN: I'm going to  
14 instruct the witness not to answer  
15 that question as calling for  
16 privileged information.

17 MR. FARRELL: Right. But the  
18 deposition protocol and the rules  
19 governing this litigation state that  
20 counsel is not allowed to discuss with  
21 the witness the substance of any  
22 testimony during a break.

23 And so his answer in the  
24 affirmative indicates that that  
25 occurred, and so I should be allowed

1 to inquire about that.

2 MS. HENN: All right. Well,  
3 let's take a break, and we will  
4 discuss outside and have a privileged  
5 conversation, and we'll see if there's  
6 any answer that he can provide without  
7 divulging privileged information that  
8 I don't believe you're entitled to.

9 MR. FARRELL: Okay. So you're  
10 going to have a second conversation  
11 during a break about the substance of  
12 his testimony?

13 MS. HENN: No, Counsel, that's  
14 not what's going to happen. But I'd  
15 like to take a break so that I can  
16 talk to my witness about answering the  
17 question inquiring into discussions  
18 with counsel.

19 MR. FARRELL: Okay.

20 MS. HENN: Thank you.

21 VIDEOGRAPHER: The time is  
22 10:42 a.m. We're going off the  
23 record.

24 (Off the record at 10:42 a.m.)

25 VIDEOGRAPHER: The time is

1 10:46 a.m. We're back on the record.

2 MR. FARRELL: So what did you  
3 find out?

4 MS. HENN: Counsel, just to  
5 protect the privilege, I'm just going  
6 to instruct the witness that when he  
7 answered yes to your question and  
8 indicated affirmatively that we'd  
9 talked about the substance of his  
10 testimony, I'm going to ask him to  
11 answer your question and tell you what  
12 he deemed to be the substance of his  
13 testimony, but I'm also going to ask  
14 him not to repeat what I -- my  
15 response.

16 So let's do that, and we can  
17 discuss if you're still concerned.

18 Okay?

19 MR. FARRELL: Not really. Let  
20 me make --

21 MS. HENN: Go ahead and ask  
22 your question.

23 MR. FARRELL: Let me make it  
24 even easier.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Did anything your lawyer say to  
3 you cause you to change or withdraw anything  
4 you said this morning?

5 A. Absolutely not.

6 Q. Did anything your lawyer told  
7 you during the break impact or affect your  
8 testimony the rest of the day?

9 A. No.

10 Q. That's fair enough.

11 A. Okay.

12 Q. Aside from the statutory duty  
13 and the duty that's in the regulation, does  
14 McKesson acknowledge that it has a general  
15 duty to protect the public against diversion  
16 of controlled substances and opium pills?

17 MS. HENN: Objection to form.

18 THE WITNESS: Could you restate  
19 that, please?

20 QUESTIONS BY MR. FARRELL:

21 Q. Does McKesson acknowledge that  
22 it has a general duty to protect the public  
23 against diversion of controlled substances  
24 and opium pills into the illicit market?

25 MS. HENN: Objection to form.

1 THE WITNESS: Yes, a general  
2 duty as part of our responsibility,  
3 regulatory responsibilities and  
4 general responsibilities.

5 QUESTIONS BY MR. FARRELL:

6 Q. So let's be careful. I want  
7 to -- the wording sometimes makes a  
8 difference.

9 A. Okay.

10 Q. Aside from the statute from the  
11 United States Code and the regulations  
12 promulgated by the Department of Justice,  
13 does McKesson acknowledge that it owes a duty  
14 to the general public to prevent diversion of  
15 controlled substances and opium pills into  
16 the illicit market?

17 MS. HENN: Objection to form.

18 THE WITNESS: We do feel  
19 strongly about playing a role in  
20 preventing diversion.

21 QUESTIONS BY MR. FARRELL:

22 Q. So the answer needs to be  
23 "yes," "no," or "I don't know."

24 A. Yes.

25 MS. HENN: Objection to form.

1 QUESTIONS BY MR. FARRELL:

2 Q. So your answer is, yes, aside  
3 from the statutory and regulatory provisions,  
4 McKesson acknowledges that it owes a duty to  
5 the general public to prevent diversion of  
6 controlled substances and opium pills into  
7 the illicit market?

8 MS. HENN: Objection to form.

9 THE WITNESS: Yes.

10 (McKesson-Hartle Exhibit 10  
11 marked for identification.)

12 QUESTIONS BY MR. FARRELL:

13 Q. I'm going to mark what is going  
14 to be Deposition Exhibit 10. The top  
15 right-hand corner is going to be 1910\_01\_11.  
16 And I'll show it to you, to counsel, two  
17 extra copies for my new best friends. And  
18 I'm going to give you a little introduction  
19 to this document before you start flipping  
20 through it.

21 The front is the HathiTrust.

22 Are you familiar with the HathiTrust?

23 A. I am not.

24 Q. I wasn't either until this  
25 litigation.

1                   The HathiTrust is an  
2   organization, nonprofit organization, that  
3   collects public documents and puts them  
4   online.

5           A.       Okay.

6           Q.       This one is from December 1910  
7   and January 1911. That's a long time ago,  
8   isn't it?

9           A.       That would be a long time ago.

10          Q.       100 years ago.

11                   This predates 1970s US Code and  
12   the 1971 Code of Federal Regulations, agreed?

13          A.       Clearly, yes.

14          Q.       This is a hearing on -- take a  
15   guess.

16          A.       Opioids.

17          Q.       In particular, opium. And it  
18   was about the importation of opium into  
19   America back in the early turn of the  
20   century.

21                   McKesson was around back then,  
22   wasn't they?

23          A.       McKesson was -- has been  
24   around.

25          Q.       They were around back during

1     this time frame, agreed?

2             A.       Agreed.

3             Q.       So why do you think I'm  
4     bringing this up?

5             MS. HENN:  Objection to form.

6             THE WITNESS:  I don't want to  
7             speculate why I think you're bringing  
8             it up.

9     QUESTIONS BY MR. FARRELL:

10            Q.       Guess who testified during this  
11     hearing.

12            MS. HENN:  Objection to form.

13            THE WITNESS:  Don't know.

14     QUESTIONS BY MR. FARRELL:

15            Q.       Take a wild guess.

16            MS. HENN:  Same objection.

17            THE WITNESS:  I don't have  
18            honestly a guess.

19     QUESTIONS BY MR. FARRELL:

20            Q.       Mr. McKesson.

21                    So what I'm going to have you  
22     flip to, is I'm going to have you flip to  
23     page 72.

24                    Now, without going through the  
25     entire boring history of commerce clause, the

1 United States Constitution, I'm just going to  
2 give you a broad statement.

3 What this is, is this is  
4 America's first attempt to regulate opium  
5 trafficking in America. And back then there  
6 was a big debate on whether or not this was  
7 something the federal government can do or  
8 it's something that should be left to the  
9 states.

10 So what the federal government  
11 decided to do was pass the Harrison Narcotic  
12 Act. What that did was it basically taxed  
13 opium as a way for the federal government to  
14 control, and this is a debate about the  
15 taxation on the importation of opium.

16 A. Okay.

17 Q. Page 72 is the beginning of the  
18 testimony of Mr. McKesson from McKesson &  
19 Robbins, which is the predecessor and when  
20 McKesson Corporation was in the private hands  
21 of the McKesson family.

22 You acknowledge that?

23 A. Correct.

24 Q. I'm going to have you flip to  
25 page 75. And if you look near the top, one

1 of congressmen asks Mr. McKesson about  
2 whether or not he supports this bill. And  
3 I'm going to give you an opportunity to read  
4 to yourself the provision before I ask you to  
5 read it aloud.

6 A. Which specific part do you want  
7 me to start and end at?

8 Q. The first time it says  
9 "Mr. McKesson."

10 A. Okay.

11 Q. He's asked about whether or not  
12 he's in favor of the bill.

13 Do you see that?

14 A. I do.

15 Q. And his answer is, "Yes, very  
16 much in favor of the bill."

17 Do you see that provision?

18 A. I do.

19 Q. Now, would you please begin  
20 reading the next sentence?

21 A. Out loud?

22 Q. Please.

23 A. "Our firm was founded in 1832,  
24 and we have been ever since against the sale  
25 of habit-forming drugs and all that kind of

1     thing. Orders which have come to us from  
2     suspicious people we have put in the hands of  
3     the proper authorities for tracing and  
4     prosecution, if necessary."

5             Q.       So you agree with me that even  
6     before the enactment of the Controlled  
7     Substances Act and the Code of Federal  
8     Regulations, which we discussed earlier this  
9     morning, is that McKesson, Mr. McKesson  
10    hissself, was acknowledging that if they have  
11    suspicious people, they're going to turn it  
12    over to law enforcement for prosecution,  
13    agreed?

14                    MS. HENN: Objection to form.

15                    THE WITNESS: Agreed based on  
16                    what I'm reading in this document.

17    QUESTIONS BY MR. FARRELL:

18             Q.       And this duty predates the US  
19     Code and predates the Code of Federal  
20     Regulations, agreed?

21                    MS. HENN: Objection to form.

22                    THE WITNESS: Agreed.

23    QUESTIONS BY MR. FARRELL:

24             Q.       So would you agree, would  
25     McKesson agree, that it owes a common law

1 duty to the American public to prevent  
2 diversion if it's engaged in the distribution  
3 of controlled substances, including opium  
4 pills, to prevent their diversion into the  
5 illicit market?

6 MS. HENN: Objection to form.

7 THE WITNESS: Can you ask it in  
8 a shorter version there?

9 QUESTIONS BY MR. FARRELL:

10 Q. Probably not.

11 Does McKesson acknowledge it  
12 owes a common law duty to the American public  
13 to prevent the diversion of controlled  
14 substances, including opium pills, into the  
15 illicit market?

16 MS. HENN: Objection to form.

17 THE WITNESS: Yes.

18 QUESTIONS BY MR. FARRELL:

19 Q. Now, the first part of the  
20 sentence, it kind of grabbed my attention.  
21 It says, "McKesson has ever since been  
22 against the sale of habit-forming drugs."  
23 And this was in 1910.

24 Do you see that?

25 A. I see that.

1 Q. When did McKesson begin the  
2 business of selling opium pills?

3 MS. HENN: Objection to form.

4 THE WITNESS: I do not know.

5 QUESTIONS BY MR. FARRELL:

6 Q. At some point in time  
7 McKesson's philosophy changed, and it went  
8 from not selling habit-forming drugs to now  
9 selling habit-forming drugs, agreed?

10 MS. HENN: Objection to form.

11 THE WITNESS: Agreed.

12 QUESTIONS BY MR. FARRELL:

13 Q. Has McKesson considered, given  
14 the presence of the opioid epidemic in  
15 America, perhaps returning to the stance of  
16 1910 of its founder, Mr. McKesson?

17 MS. HENN: Objection to form.

18 THE WITNESS: Again, I'm not  
19 aware of that. Can't answer that  
20 question.

21 QUESTIONS BY MR. FARRELL:

22 Q. Well, you could choose not to  
23 sell opium pills anymore in America, could  
24 you not?

25 A. You could choose to.

1           Q.       But McKesson chooses to  
2     continue to sell opium pills in America,  
3     despite the fact that we have an opiate pill  
4     epidemic?

5                   MS. HENN:  Objection to form.

6                   THE WITNESS:  We do.

7                   (McKesson-Hartle Exhibit 11  
8           marked for identification.)

9     QUESTIONS BY MR. FARRELL:

10           Q.       The next exhibit we're going to  
11    have marked as Exhibit 11.  In the top  
12    right-hand corner, this is 1996, 04, 01.

13                   We've acknowledged that in  
14    1971, Department of Justice adopted CFR  
15    provision 1301.74, agreed?

16           A.       Agree.

17           Q.       And then we went through and  
18    it's the law today, agreed?

19           A.       Agreed.

20           Q.       It's the law that was  
21    referenced in the Masters Pharmaceutical  
22    case, agreed?

23           A.       Agreed.

24           Q.       And it hadn't changed through  
25    all those colorful books I showed you,

1       agreed?

2                               MS. HENN:  Objection to form.

3                               THE WITNESS:  Agreed.

4       QUESTIONS BY MR. FARRELL:

5               Q.       This is a specific year.

6                               Can you tell me what year it

7       is?

8               A.       1996.

9               Q.       Why do you think I picked this  
10      year?

11                              MS. HENN:  Objection to form.

12                              THE WITNESS:  I'm not -- I'm  
13      not sure.

14      QUESTIONS BY MR. FARRELL:

15              Q.       What happened in 1996 that  
16      changed the face of opioid sales in America?

17                              MS. HENN:  Objection to form.

18                              THE WITNESS:  I'm not  
19      100 percent sure.  I'd be speculating.

20      QUESTIONS BY MR. FARRELL:

21              Q.       Well, McKesson's in the  
22      business of selling opium pills, correct?

23                              MS. HENN:  Objection to form.

24                              THE WITNESS:  As part of  
25      controlled substances, yes.

1 QUESTIONS BY MR. FARRELL:

2 Q. And in 1996, business began  
3 hopping, agreed?

4 MS. HENN: Objection to form.

5 THE WITNESS: I'm not sure. I  
6 don't -- I don't -- I can't answer  
7 that. I don't know what the business  
8 was before or --

9 QUESTIONS BY MR. FARRELL:

10 Q. That's fair enough.

11 A. Yeah.

12 Q. In 1996, I'll represent to you,  
13 OxyContin was launched. So all I'm trying to  
14 establish on page 2 of the exhibit is that  
15 under 1301.74 B, the same law was in place  
16 when OxyContin was launched.

17 MS. HENN: Objection to form.

18 QUESTIONS BY MR. FARRELL:

19 Q. Agreed?

20 A. Understood.

21 Q. Not understood --

22 A. Agreed.

23 Q. Yeah.

24 A. Sorry.

25 Q. This might take a little bit

1 longer because, as you can see, this next  
2 exhibit is a little bit thicker.

3 (McKesson-Hartle Exhibit 12  
4 marked for identification.)

5 QUESTIONS BY MR. FARRELL:

6 Q. We're going to have it marked  
7 as Exhibit 12.

8 MR. FARRELL: So for the  
9 record, the top right-hand corner is  
10 2000\_07. The bottom right-hand  
11 corner, for all the fans listening on  
12 the telephone, is an actual Bates  
13 stamp number. And while this was  
14 previously produced to some Attorney  
15 Generals, it was also produced in the  
16 MDL, so I have an MDL number. And  
17 it's MCKMDL00337660.

18 QUESTIONS BY MR. FARRELL:

19 Q. Now, does McKesson recognize  
20 this document?

21 A. I do.

22 Q. And has McKesson reviewed this  
23 document in preparation for today's  
24 testimony?

25 MS. HENN: Objection to form.

1 THE WITNESS: I have.

2 QUESTIONS BY MR. FARRELL:

3 Q. What is this document?

4 A. This is the operational manual  
5 for how controlled substances are handled  
6 within McKesson.

7 Q. And what was the date of  
8 enactment?

9 A. I believe July of 2000.

10 Q. Okay. Prior to July of 2000,  
11 what was the policy at McKesson regarding the  
12 distribution of controlled substances?

13 MS. HENN: Objection to form.  
14 Outside the scope.

15 THE WITNESS: I can't speak to  
16 that.

17 QUESTIONS BY MR. FARRELL:

18 Q. To your understanding and  
19 belief sitting here today as the  
20 representative of McKesson, is this document  
21 the earliest version of the controlled  
22 substance monitoring program adopted by the  
23 company?

24 MS. HENN: Same objections.

25 THE WITNESS: I can't say for

1           certain this is the only one I know  
2           of.

3       QUESTIONS BY MR. FARRELL:

4           Q.       I'm not asking you to --

5           A.       Yeah.

6           Q.       -- foreclose the existence of  
7       anything else.

8           A.       Right.

9           Q.       Sitting here today as the  
10       McKesson designee for the 30(b)(6)  
11       deposition, what we're showing you here as  
12       Exhibit 12 is the earliest version you're  
13       aware of for McKesson's controlled substance  
14       monitoring program?

15                   MS. HENN:  Objection to form.  
16       Outside the scope.

17                   THE WITNESS:  Correct, that I'm  
18       aware of.

19       QUESTIONS BY MR. FARRELL:

20           Q.       So when I asked you in the  
21       30(b)(6) deposition notice to testify  
22       regarding all past and present suspicious  
23       order policies and procedures, this, to the  
24       best of your knowledge, is the first time  
25       McKesson has adopted a policy and procedure

1 in compliance with the United States Code  
2 that we discussed this morning and the Code  
3 of Federal Regulations we discussed this  
4 morning.

5 MS. HENN: Objection.

6 QUESTIONS BY MR. FARRELL:

7 Q. Agreed?

8 MS. HENN: Objection to form.  
9 Outside the scope.

10 THE WITNESS: I can't -- I  
11 can't speak to things that may have  
12 happened prior to this date that maybe  
13 weren't put in this format and written  
14 down on paper, but on paper, this is  
15 the one that I recognize.

16 QUESTIONS BY MR. FARRELL:

17 Q. I need to be a little more  
18 clear about it.

19 Are you aware of any other  
20 piece of paper in the annals of McKesson  
21 Corporation that talk about the duty to  
22 comply with the United States Code and the  
23 Code of Federal Regulations regarding the  
24 distribution of controlled substances?

25 MS. HENN: Objection to form.

1 Outside the scope.

2 MR. FARRELL: Counsel, it seems  
3 to be directly within point A of the  
4 30(b)(6) notice.

5 MS. HENN: We can disagree  
6 about that.

7 MR. FARRELL: Well, I'll read  
8 it out loud.

9 "Your past, present, suspicious  
10 orders monitoring system, SOMS  
11 program, policies and procedures."

12 MS. HENN: And I'll just object  
13 again to the question as outside the  
14 scope.

15 And to respond to you,  
16 Mr. Farrell, the -- Special Master  
17 Cohen has made rulings about the  
18 proper time frame for discovery, and  
19 so our position is that asking about  
20 the annals of McKesson Corporation is  
21 outside the scope.

22 But he can answer your question  
23 if you want to state it again.

24 MR. FARRELL: That's a fair  
25 point.

1 QUESTIONS BY MR. FARRELL:

2 Q. So sitting here today as  
3 McKesson Corporation, you're unaware of any  
4 piece of paper that predates Exhibit 12, but  
5 there may be; is that fair?

6 MS. HENN: Objection to form.  
7 Outside the scope.

8 THE WITNESS: That's fair. I'm  
9 unaware, but I -- there may be.

10 QUESTIONS BY MR. FARRELL:

11 Q. So you don't have any basis in  
12 fact, as the McKesson designee today, to  
13 discuss what the policies and procedures were  
14 for McKesson related to the distribution of  
15 controlled substances and opium pills between  
16 '96 when OxyContin was launched and the  
17 adoption of Section 55, Exhibit 12, in July  
18 of 2000; is that a fair statement?

19 MS. HENN: Objection to form.  
20 Outside the scope.

21 THE WITNESS: That's a fair  
22 statement.

23 QUESTIONS BY MR. FARRELL:

24 Q. So what we're looking at is  
25 Exhibit 12.

1 Can you tell me the name of  
2 this document?

3 A. It's the drug operation manual.  
4 It's been -- but it's known as Section 55,  
5 often within McKesson, which is also in the  
6 title.

7 Q. And as of July 2000, is there  
8 any other document related to the  
9 distribution of controlled substances in the  
10 prevention of diversion other than  
11 Section 55?

12 MS. HENN: Objection to form.  
13 Outside the scope.

14 THE WITNESS: I'm not following  
15 your question 100 percent.

16 QUESTIONS BY MR. FARRELL:

17 Q. Okay. Are you a sports fan?

18 A. I am.

19 Q. What's your favorite sport?

20 A. Wrestling.

21 Q. Very good.

22 How many rules are in the  
23 wrestling rule book?

24 A. I couldn't even guess. I don't  
25 know.

1 Q. But the wrestling rule book is  
2 intended to be comprehensive, agreed?

3 A. I would agree.

4 Q. If you're a referee, how many  
5 different books do you have to read to know  
6 the rules of wrestling on the mat?

7 A. Should be one.

8 Q. Is that the same for this  
9 document, Exhibit 12? Is this intended to be  
10 the rule book for the distribution of  
11 controlled substances for McKesson  
12 Corporation?

13 MS. HENN: Objection to form.

14 THE WITNESS: For which time  
15 frame?

16 QUESTIONS BY MR. FARRELL:

17 Q. July 2000 until -- and I'll  
18 give you a hint -- the 2007 Lifestyles  
19 program.

20 MS. HENN: Objection to form.

21 Outside the scope.

22 THE WITNESS: I'm not aware of  
23 another one.

24 QUESTIONS BY MR. FARRELL:

25 Q. All right. On page 1, the very

1 first paragraph under general, I'd like you  
2 to take a minute and read that. And I've  
3 never liked just having you -- or just spring  
4 that on you. I want you to kind of digest  
5 it.

6 A. Just the first paragraph?

7 Q. Just the first paragraph.

8 A. I read it.

9 Q. All right. Now, I'm going to  
10 have you read aloud just the first sentence,  
11 and I'm going to compliment you that all of  
12 your testimony this morning is spot-on with  
13 that very first sentence. I couldn't trip  
14 you up at all. So I'd like you to read the  
15 first sentence aloud, please.

16 A. "The aim of the Controlled  
17 Substance Act is to prevent diversion of  
18 abusable substances into illicit traffic  
19 while ensuring their availability for  
20 legitimate medical purposes."

21 Q. So again, we're back to this  
22 theme that the Controlled Substances Act was  
23 intended to prevent diversion, agreed?

24 MS. HENN: Objection to form.

25 THE WITNESS: Agreed.

1 QUESTIONS BY MR. FARRELL:

2 Q. And in July of 2000, McKesson  
3 adopted a policy to accomplish that  
4 objective; is that fair?

5 MS. HENN: Objection to form.

6 THE WITNESS: They formalized a  
7 policy within -- within this document.

8 QUESTIONS BY MR. FARRELL:

9 Q. That's the purpose of this  
10 document?

11 A. Right.

12 Q. Who wrote this document?

13 A. I'm not 100 percent sure  
14 exactly who wrote it within the McKesson  
15 team, but a combination of people.

16 Q. Whose document is this?

17 MS. HENN: Objection to form.

18 THE WITNESS: McKesson's.

19 QUESTIONS BY MR. FARRELL:

20 Q. Is this a document that is kept  
21 in the regular course of business for  
22 McKesson?

23 MS. HENN: Objection to form.

24 THE WITNESS: It is.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Is this a true and authentic  
3 copy of Section 55 of McKesson's policy?

4 MS. HENN: Objection to form.

5 THE WITNESS: I know it's  
6 undergoing some revisions.

7 QUESTIONS BY MR. FARRELL:

8 Q. Well, not as of July 2000.

9 A. Oh, can you say it again?

10 Q. Yeah. This document, sitting  
11 here today --

12 A. Right.

13 Q. -- is this a document that as  
14 of July of the year 2000 was a document  
15 created by McKesson in the course of  
16 conducting its regular business activities?

17 MS. HENN: Objection to form.

18 THE WITNESS: Yes.

19 QUESTIONS BY MR. FARRELL:

20 Q. So if I hold this document up  
21 in a courtroom I can say this is McKesson's  
22 drug operations manual related to the  
23 distribution of controlled substances that  
24 was adopted in July of 2000?

25 A. Yes.

1           Q.       Now, the second sentence,  
2     starting with "The Drug Enforcement  
3     Administration," can you read that sentence  
4     aloud?

5           A.       Sure.

6                   "The Drug Enforcement  
7     Administration strictly interprets the law  
8     and regulations and has imposed significant  
9     fines for technical errors in completing  
10    forms and keeping records."

11          Q.       So the DEA, even as of July  
12    2000, took the Controlled Substances Act very  
13    seriously, and McKesson acknowledges that,  
14    agreed?

15                   MS. HENN:  Objection to form.

16                   THE WITNESS:  Correct, or  
17    agreed.

18    QUESTIONS BY MR. FARRELL:

19          Q.       Now, would you read the last  
20    sentence?

21          A.       "It's extremely important that  
22    McKesson employees comply fully with the  
23    regulations and the following guidelines."

24          Q.       How important is it?

25                   MS. HENN:  Objection to form.

1 THE WITNESS: To recite, it  
2 says "extremely important."

3 QUESTIONS BY MR. FARRELL:

4 Q. And why?

5 A. To prevent the diversion of  
6 controlled substances.

7 Q. I'm going to have you now flip  
8 to page 27. I'll give you a minute to kind  
9 of --

10 A. The whole --

11 Q. Yeah, you can just glance it.  
12 We're going to walk through it a little bit.

13 We can start with the heading,  
14 paragraph A. What's paragraph A, the very  
15 top of the page? What's it say?

16 Oh, wait a minute, I'm sorry.

17 A. Am I on the right page here?

18 Q. I was on the wrong page.

19 Page 27, paragraph G. Will you  
20 read the first paragraph?

21 A. The heading or the entire --  
22 the first --

23 Q. You can read the heading if  
24 you'd like.

25 A. "DEA continuing education"?

1 That piece?

2 Q. Yes. And then there's another  
3 word underneath that.

4 A. "Documentation."

5 Q. What does documentation mean?

6 A. Is you document something on  
7 paper.

8 Q. Okay. And will you read the  
9 sentence, please?

10 A. "All compliance training  
11 sessions, formal and informal, held in your  
12 distribution center must be logged and  
13 documented on the DEA continuing education  
14 report."

15 Q. What does that mean?

16 MS. HENN: Objection to form.

17 Outside the scope.

18 THE WITNESS: It means you  
19 should document the training that's  
20 conducted related to compliance.

21 QUESTIONS BY MR. FARRELL:

22 Q. Okay. Is there a DEA  
23 continuing education report that you're aware  
24 of?

25 A. Not that I'm aware of.

1 Q. You haven't seen any such  
2 thing?

3 A. I don't believe I have, no.

4 Q. But if we ask for it, it's  
5 something McKesson could theoretically go and  
6 look for?

7 MS. HENN: Objection to form.

8 Outside the scope.

9 THE WITNESS: Theoretically.

10 QUESTIONS BY MR. FARRELL:

11 Q. All right. Because the policy  
12 seems to indicate you guys have this  
13 documentation of compliance training  
14 sessions. And I'll admit to you I haven't  
15 seen any, so I was wondering if you'd seen  
16 any.

17 A. I have not.

18 Q. Now, if you flip to the next  
19 page, page 28, at the top it's paragraph A.  
20 And will you read the title of paragraph A?

21 A. "Detecting suspicious orders."

22 Q. And what's it say over there on  
23 the right, that number?

24 A. 1301.74.

25 Q. What do you think that is?

1           A.       That's from the CFR.

2           Q.       All right. And then under  
3 paragraph 1, you see where it says, "DEA  
4 regulation defines suspicious orders as  
5 follows"?

6           A.       I do.

7           Q.       Will you read what's in the  
8 quotation marks?

9           A.       "Suspicious orders include  
10 orders of unusual size, orders deviating  
11 substantially from a normal pattern and  
12 orders of unusual frequency."

13          Q.       Now, if you go down to the  
14 paragraph that starts "recent cases," do you  
15 see that?

16                   Will you read the first  
17 sentence?

18          A.       "Recent cases indicate that DEA  
19 will seek large penalties from distributors  
20 who fail to comply with this regulation."

21          Q.       What do you interpret that to  
22 mean?

23                   MS. HENN: Objection. Outside  
24 the scope.

25                   THE WITNESS: Exactly what it

1           says.

2       QUESTIONS BY MR. FARRELL:

3           Q.       You got to follow the law?

4                   MS. HENN:  Objection to form.

5                   THE WITNESS:  Right.

6       QUESTIONS BY MR. FARRELL:

7           Q.       And if McKesson doesn't follow  
8       the law, that makes its conduct unlawful?

9                   MS. HENN:  Objection to form.

10                  THE WITNESS:  Yes.

11       QUESTIONS BY MR. FARRELL:

12           Q.       And McKesson has acknowledged  
13       that as early as July of 2000?

14                   MS. HENN:  Objection to form.

15                   Outside the scope.

16                  THE WITNESS:  In this document,  
17       yes.

18       QUESTIONS BY MR. FARRELL:

19           Q.       The next sentence says, "It is  
20       left to the distributor to define what  
21       constitutes an unusual or suspicious order."

22                   Do you see that sentence?

23           A.       I do.

24           Q.       And to comply with this,  
25       McKesson has adopted this policy; is that



1 to ask questions about the reports in the

2

■

■

■

6 QUESTIONS BY MR. FARRELL:

7 Q. Okay. Flip to the next page,  
8 page 29. Little A talks about controlled  
9 substances sales reports.

10 Do you see that?

11 A. I do.

12 Q. That's a document that should  
13 exist as of July of 2000, agreed?

14 MS. HENN: Objection to form.

15 Outside the scope.

16 THE WITNESS: Agreed.

17 QUESTIONS BY MR. FARRELL:

18 Q. Little B says, "Controlled  
19 substance customer purchase report."

20 That's a document that should  
21 exist as of July of 2000, agreed?

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: Agreed.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Little C says, "Daily  
3 controlled substance suspicious order warning  
4 report."

5 That's a document that should  
6 exist as of July 2000, agreed?

7 MS. HENN: Objection to form.  
8 Outside the scope.

9 THE WITNESS: Agreed.

10 QUESTIONS BY MR. FARRELL:

11 Q. Next page, little D, "Monthly  
12 controlled substance suspicious purchases  
13 report."

14 That's a document that should  
15 exist as of July 2000, agreed?

16 MS. HENN: Objection to form.  
17 Outside the scope.

18 THE WITNESS: Agreed.

19 QUESTIONS BY MR. FARRELL:

20 Q. And little E, "Monthly ARCOS  
21 customer recap variance." Again, another  
22 document that should exist as of July 2000 as  
23 part of the McKesson suspicious order  
24 detecting policy.

25 MS. HENN: Objection to form.

1 Outside the scope.

2 QUESTIONS BY MR. FARRELL:

3 Q. Agreed?

4 A. Can you rephrase that in terms  
5 of...

6 Q. Yeah. We're talking about  
7 under paragraph A, which is "Detecting  
8 Suspicious Orders."

9 A. Agreed.

10 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16 A. I see that.

17 Q. Have you seen any of those  
18 reports?

19 MS. HENN: Objection. Outside  
20 the scope.

21 THE WITNESS: I have.

22 QUESTIONS BY MR. FARRELL:

23 Q. Did you review them in  
24 anticipation of today's deposition?

25 A. I did.

1           Q.       And how far back did you review  
2   them?

3           A.       I'm not certain of the dates on  
4   the examples that I had.

5           Q.       How old?

6           A.       In the early 2000s, I believe.  
7   I'd have to look.

8           Q.       Did those reports help inform  
9   you of the policies and procedures for  
10   McKesson in preparation for today's  
11   deposition?

12                   MS. HENN:  Objection to form.

13                   THE WITNESS:  They did.

14   QUESTIONS BY MR. FARRELL:

15           Q.       And did they help refresh your  
16   recollection in preparation for today's  
17   testimony?

18                   MS. HENN:  Objection to form.

19                   THE WITNESS:  They did.

20   QUESTIONS BY MR. FARRELL:

21           Q.       Are those documents important  
22   to McKesson for purposes of complying with  
23   its duties under the Controlled Substances  
24   Act beginning in July of 2000?

25                   MS. HENN:  Objection to form.

1       Outside the scope.

2 THE WITNESS: Can you say it

3 again one more time?

4 QUESTIONS BY MR. FARRELL:

5 Q. Are those documents important

6 to McKesson for purposes of complying with

7 its duties under the Controlled Substances

8 Act beginning in July of 2000?

9 MS. HENN: Objection to form.

```
10         Outside the scope.
```

11 THE WITNESS: They are

12                   important.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Age Group	Percentage
18-24	10%
25-34	15%
35-44	20%
45-54	25%
55-64	30%
65-74	35%
75-84	40%
85+	45%

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

☐ ☐

[illegible]



8

9

10 QUESTIONS BY MR. FARRELL:

11

12

13



A horizontal bar chart with 25 rows. Each row consists of a small square icon on the left and a gray bar of varying length extending to the right. The bars represent different data points, with lengths ranging from approximately 10% to 90% of the chart's width.

Row	Bar Length (approx. %)
1	90
2	70
3	85
4	80
5	15
6	50
7	10
8	85
9	40
10	10
11	55
12	10
13	85
14	30
15	30
16	10
17	45
18	50
19	10
20	85
21	40
22	10
23	85
24	80
25	70
26	85
27	70
28	10
29	40
30	10
31	85

The image displays a horizontal bar chart consisting of 28 rows. Each row begins with a small, dark gray square icon. To the right of each icon is a horizontal gray bar. The bars vary in their starting and ending horizontal positions relative to the chart's boundaries. Some bars start at the far left, while others are indented. The lengths of the bars also vary, with some extending nearly across the entire width of the chart area and others being much shorter. The overall pattern of bars is irregular and non-repeating.

█ [REDACTED]

█ [REDACTED]

3 MS. HENN: Objection to form.

4 Outside the scope.

5 QUESTIONS BY MR. FARRELL:

6 Q. It's what the policy says?

7 MS. HENN: Same objections.

8 THE WITNESS: Can you say that

9 again or point me to the policy

10 section you're referring to?

11 QUESTIONS BY MR. FARRELL:

12 Q. Yes.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

[illegible]

[illegible]

A horizontal bar chart with 25 rows. Each row has a small square icon on the left and a corresponding horizontal bar. The bars vary in length and position, representing different percentages. The categories are not explicitly labeled, but the bars represent the following approximate percentages: 10%, 45%, 15%, 60%, 75%, 20%, 70%, 85%, 90%, 55%, 30%, 65%, 75%, 70%, 80%, 75%, 60%, 50%, 35%, 65%, 55%, 40%, 50%, 70%, 30%, 45%.

Category	Percentage
1	10%
2	45%
3	15%
4	60%
5	75%
6	20%
7	70%
8	85%
9	90%
10	55%
11	30%
12	65%
13	75%
14	70%
15	80%
16	75%
17	60%
18	50%
19	35%
20	65%
21	55%
22	40%
23	50%
24	70%
25	30%
26	45%

[illegible]

[REDACTED]

20           Q.       So you acknowledge, sitting  
21       here today as McKesson, that simply  
22       submitting reports to the DEA does not comply  
23       with the US Code or the Code of Federal  
24       Regulations?

25                   MS. HENN:  Objection to form.

1       Outside the scope.

2 THE WITNESS: Agree.

3 QUESTIONS BY MR. FARRELL:

4 Q. You have a duty to review and  
5 note orders of unusual size?

6           A.       It's part of our -- this  
7 document program, yes.

Row	Bar Length (approx. % of total width)
1	10
2	90
3	88
4	100
5	52
6	92
7	78
8	0
9	35
10	0
11	0
12	95
13	100
14	50
15	35
16	0
17	35
18	0
19	0
20	0
21	0
22	0
23	0
24	0
25	0
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95	0
96	0
97	0
98	0
99	0
100	0

█

[REDACTED]

█

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

6

MS. HENN: Objection to form.

7

Outside the scope.

8

THE WITNESS: One more time,

9

please.

10

QUESTIONS BY MR. FARRELL:

█

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

[REDACTED]

█

[REDACTED]

█

[REDACTED]

[REDACTED]

█

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

█

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[REDACTED]

█

[REDACTED]

█

█

[REDACTED]

█

█

[REDACTED]

A horizontal bar chart consisting of 20 rows. Each row features a small, solid gray square icon on the left, followed by a horizontal gray bar. The bars vary in their starting and ending positions relative to the chart's width, creating a fragmented, abstract pattern. Some bars span the entire width, while others are positioned in the center or aligned to the right. The overall effect is a series of horizontal segments of varying lengths and positions, resembling a stylized, abstract representation of data or a sequence of events.

21 QUESTIONS BY MR. FARRELL:

22 Q. This goes back to what we were  
23 talking about earlier, is that aside from  
24 your regulatory responsibilities, you also  
25 perform a function that serves the public

1 interest at large?

2 A. Correct.

[illegible]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

7 QUESTIONS BY MR. FARRELL:

8 Q. Sitting here today, though, you  
9 have not seen any such document?

10 A. I've not reviewed a completed  
11 one. I've seen one.

12 Q. Do they still exist?

13 MS. HENN: Objection to form.  
14 Outside the scope.

15 THE WITNESS: I'm not sure.

16 (McKesson-Hartle Exhibit 13  
17 marked for identification.)

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to have marked as the  
20 next sequential exhibit Exhibit 13. The  
21 document in the right-hand corner is  
22 2001\_0828.

23 Again, this is from the  
24 HathiTrust.

25 A. I see that.

1 Q. It's a Congressional record  
2 from 2001.

3 Can you read the title of the  
4 Congressional investigation?

5 A. "OxyContin: Its use and abuse:  
6 Hearing before the Subcommittee and Oversight  
7 and Investigations of the Committee on Energy  
8 and Commerce, House of Representatives, 107th  
9 Congress, First Session, August 28th of  
10 2001."

11 Q. Does McKesson acknowledge that  
12 the use and abuse of OxyContin was on the  
13 national radar at least as early as  
14 August 28, 2001, with a Congressional  
15 hearing?

16 MS. HENN: Objection to form.

17 THE WITNESS: Yes.

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to have you flip to  
20 page 8. This is the introductory statement  
21 from the chairman, James Greenwood, on the  
22 Subcommittee on Oversight and Investigations.  
23 He's from Pennsylvania.

24 Two-thirds of the way down, the  
25 sentence says, "These actions, though

1 commendable, also appear long overdue."

2 Do you see that sentence?

3 A. I do see that.

4 Q. Will you begin reading,  
5 starting with "according"?

6 A. "According to DEA, the number  
7 of oxycodone-related deaths has increased  
8 400 percent since 1996, the same time period  
9 in which the annual number of prescriptions  
10 for OxyContin has risen from approximately  
11 300,000 to almost 6 million."

12 Q. And how did these  
13 prescriptions -- how did these pills get from  
14 Purdue Pharma, who makes OxyContin, to the  
15 pharmacies?

16 MS. HENN: Objection to form.

17 THE WITNESS: After being  
18 prescribed by a doctor --

19 QUESTIONS BY MR. FARRELL:

20 Q. Yes.

21 A. -- and sent to pharmacies --

22 Q. Yes.

23 A. -- or other by distributors.

24 Q. Right.

25 So between 1996 and the year

1     2001, the number of prescriptions went from  
2     300,000 to almost 6 million. So the  
3     OxyContin business was a-booming, wasn't it?

4                     MS. HENN: Objection to form.  
5             Outside the scope.

6                     THE WITNESS: It increased  
7             significantly.

8     QUESTIONS BY MR. FARRELL:

9             Q.       And McKesson was amongst the  
10     distributors that were delivering the pills  
11     from Purdue Pharma to the pharmacies?

12                    MS. HENN: Objection to form.

13                    THE WITNESS: We were.

14     QUESTIONS BY MR. FARRELL:

15             Q.       Do you believe that the  
16     increase from 300,000 prescriptions to 6  
17     million is an increase of unusual size?

18                    MS. HENN: Objection to form.

19             Outside the scope.

20                    THE WITNESS: Could you ask  
21     that again?

22     QUESTIONS BY MR. FARRELL:

23             Q.       You go from 300,000  
24     prescriptions to 6 million in five years. Do  
25     you think that that is an unusual increase?

1 MS. HENN: Objection to form.

2 Outside the scope.

3 THE WITNESS: It appears to be  
4 a significant increase. I don't -- I  
5 don't have the context of before --  
6 everything before, but it's a large  
7 increase.

8 QUESTIONS BY MR. FARRELL:

9 Q. Well, assuming in 1996 there  
10 were 300,000 prescriptions and five years  
11 later there were 6 million, would you --  
12 would you characterize that increase as  
13 unusual?

14 MS. HENN: Objection to form.  
15 Outside the scope.

16 THE WITNESS: I don't know if I  
17 would characterize it as -- it's  
18 significant.

19 QUESTIONS BY MR. FARRELL:

20 Q. Significant enough to get  
21 McKesson's attention?

22 MS. HENN: Objection to form.

23 THE WITNESS: Significant  
24 enough.  
25

1 QUESTIONS BY MR. FARRELL:

2 Q. Yes?

3 A. Yes.

4 Q. Now, two paragraphs down it  
5 says, "In its testimony today" --

6 Do you see that paragraph?

7 A. I do.

8 Q. -- "Purdue Pharma will argue  
9 that the death figures heralded by newspapers  
10 nationwide are inaccurate and are the prime  
11 mover of the negative hype surrounding  
12 OxyContin."

13 Do you see that sentence?

14 A. I do see that sentence.

15 Q. So does McKesson acknowledge  
16 that death figures are being heralded by  
17 newspapers nationwide as of 2001?

18 MS. HENN: Objection to form.

19 Outside the scope.

20 THE WITNESS: Could you ask  
21 that again in a different way, maybe?

22 QUESTIONS BY MR. FARRELL:

23 Q. Yeah.

24 This is saying that there's  
25 newspaper headlines across the country of

1 people dying taking opium pills that McKesson  
2 is distributing.

3 Does McKesson acknowledge that?

4 MS. HENN: Objection to form.

5 Outside the scope.

6 THE WITNESS: Not that --

7 there's certainly headlines of  
8 opioid-related deaths.

9 QUESTIONS BY MR. FARRELL:

10 Q. In 2001?

11 A. I don't know of any  
12 specifically. I'm assuming there were in  
13 that time frame.

14 Q. And it's a little unfair to ask  
15 you because you weren't there in 2001, but as  
16 McKesson's corporate designee I'm simply  
17 looking for an acknowledgement that the chain  
18 of distribution McKesson was involved in is  
19 being heralded in newspapers as causing  
20 deaths across the country.

21 MS. HENN: Objection to form.

22 Outside the scope.

23 QUESTIONS BY MR. FARRELL:

24 Q. Does McKesson acknowledge that  
25 fact?

1 MS. HENN: Same objections.

2 THE WITNESS: I haven't seen  
3 any of those headlines, so I can't  
4 speak to whether us as a distributor  
5 was called out in those.

6 QUESTIONS BY MR. FARRELL:

7 Q. I'm not asking you if you were  
8 called out as a distributor. What I'm asking  
9 you is if McKesson acknowledged that the  
10 pills that it was selling was causing deaths  
11 nationwide and resulted in newspaper  
12 headlines across the country.

13 MS. HENN: Objection to form.  
14 Outside the scope.

15 THE WITNESS: Yes, pills that  
16 we distribute were in headlines.

17 QUESTIONS BY MR. FARRELL:

18 Q. And Purdue Pharma says that  
19 "those headlines are inaccurate and the prime  
20 mover of the negative hype surrounding  
21 OxyContin."

22 Does McKesson Corporation,  
23 sitting here today, concur with Purdue  
24 Pharma?

25 MS. HENN: Objection to form.

1 Outside the scope.

2 THE WITNESS: Reading the rest  
3 of this if you don't -- I'm reading  
4 down a little bit more, so...

5 Can you ask your question  
6 again?

7 QUESTIONS BY MR. FARRELL:

8 Q. Yeah.

9 Does McKesson Corporation,  
10 sitting here today and testifying, concur  
11 with Purdue Pharma that the nationwide  
12 newspapers about overdose deaths are  
13 inaccurate?

14 MS. HENN: Objection to form.  
15 Outside the scope.

16 THE WITNESS: I can't speak to  
17 that. I'd just be speculating.

18 QUESTIONS BY MR. FARRELL:

19 Q. You don't share Purdue Pharma's  
20 disavow of the problems caused by its  
21 OxyContin pills?

22 MS. HENN: Objection to form.  
23 Outside the scope.

24 THE WITNESS: I'm not saying  
25 that. I'm saying I can't answer the

1 question that you asked earlier.

2 (McKesson-Hartle Exhibit 14

3 marked for identification.)

4 QUESTIONS BY MR. FARRELL:

5 Q. Next exhibit we'll have marked

6 sequentially as Exhibit 4. It's from the

7 Internet. It's document 2002\_09\_26.

8 MS. HENN: Mr. Farrell, did you

9 mean Exhibit 4 or 14?

10 MR. FARRELL: 14.

11 MS. HENN: Okay.

12 MR. FARRELL: You caught me.

13 QUESTIONS BY MR. FARRELL:

14 Q. And I'm not going to bore you

15 with the details of this, but are you aware

16 of the Office of Inspector General?

17 A. I am.

18 Q. This is a report generated by

19 the OIG in 2002, and what it was talking

20 about was it was talking about the opioid

21 epidemic, and it was talking about the DEA's

22 ability to regulate the industry.

23 Have you reviewed this document

24 before today?

25 A. I have not.

1 Q. Give me a second here.

2 On Bates stamp page 12, it's  
3 talking about diversion investigators. And  
4 it says there were 55 at headquarters and 455  
5 in the domestic field offices and 13  
6 overseas.

7 Do you see that?

8 A. I do see that.

9 Q. So that means there's just over  
10 500 DEA diversion investigators in the  
11 country in 2001.

12 MS. HENN: Objection to form.

13 Outside the scope.

14 QUESTIONS BY MR. FARRELL:

15 Q. Responsible for regulating the  
16 entire industry of the distribution of  
17 controlled substances.

18 Do you know how many  
19 transactions McKesson engaged in in the  
20 distribution of controlled substances in  
21 2001?

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: I do not have the  
25 number off the top of my head.

1 QUESTIONS BY MR. FARRELL:

2 Q. The OIG report basically says  
3 that as of 2001 there needed to be  
4 reassessment because the DEA was understaffed  
5 and underfunded and didn't have sufficient  
6 tools to be able to regulate the industry.

7 Does McKesson acknowledge and  
8 agree with that assessment?

9 MS. HENN: Objection to form.  
10 Outside the scope.

11 THE WITNESS: Could you ask  
12 that again?

13 MR. FARRELL: Yeah, obviously  
14 I'm leading up to some other  
15 documents.

16 QUESTIONS BY MR. FARRELL:

17 Q. But does McKesson acknowledge  
18 that in 2001 there were 500 DEA diversion  
19 investigators trying to monitor all of the  
20 transactions in the country?

21 MS. HENN: Objection to form.  
22 Outside the scope.

23 THE WITNESS: I see that in the  
24 documents. I can't speak to, you  
25 know, the DEA's total -- their

1 response in total, so I can confirm  
2 that's in -- what's in this document.

3 QUESTIONS BY MR. FARRELL:

4 Q. All right. So let's talk about  
5 it from a theoretical standpoint.

6 Let's say there were 500  
7 highway patrol officers charged with  
8 regulating the speed on the highways in the  
9 United States of America in the year 2001.

10 Do you believe that that would  
11 be a significant challenge, a somewhat of a  
12 challenge or not very challengeable at all?

13 MS. HENN: Objection to form.

14 Outside the scope.

15 THE WITNESS: Again, just  
16 speculating, it would be a challenge.

17 QUESTIONS BY MR. FARRELL:

18 Q. How many people would speed in  
19 America if there were only 500 highway  
20 patrolmen in the country?

21 MS. HENN: Same objections.

22 THE WITNESS: I can't even  
23 guess or speculate.

24 QUESTIONS BY MR. FARRELL:

25 Q. Do you think that would be a

1 lot of people or not a lot of people?

2 MS. HENN: Same objections.

3 THE WITNESS: Again, that

4 depends on how many law-abiding

5 citizens you have. I don't know if I

6 can speculate.

7 QUESTIONS BY MR. FARRELL:

8 Q. That is so true.

9 What do you think the American

10 citizen would do if they knew there were only

11 500 highway patrolmen?

12 MS. HENN: Objection to form.

13 Outside the scope.

14 THE WITNESS: Again, I don't

15 know. Some people might speed. Some

16 people might not change their behavior

17 at all.

18 QUESTIONS BY MR. FARRELL:

19 Q. That's right.

20 What if the penalty, if you did

21 get caught, was only \$10?

22 MS. HENN: Objection to scope.

23 QUESTIONS BY MR. FARRELL:

24 Q. How would that impact your view

25 of the regulation of the American highways?

1 MS. HENN: Objection to form.

2 Outside the scope.

3 THE WITNESS: Again, you can  
4 speculate. Some might see that as  
5 a -- yeah, it depends. It really  
6 depends.

7 QUESTIONS BY MR. FARRELL:

8 Q. What if the biggest weapon the  
9 highway patrolmen had, which is the  
10 revocation of the driver's license, was  
11 changed and so now you don't even lose your  
12 license? How would that impact the system?

13 MS. HENN: Same objections.

14 THE WITNESS: Impact the  
15 system?

16 QUESTIONS BY MR. FARRELL:

17 Q. Yeah, impact the number of  
18 speeders.

19 MS. HENN: Objection to form.  
20 Outside the scope.

21 THE WITNESS: You can speculate  
22 that it may go down.

23 QUESTIONS BY MR. FARRELL:

24 Q. The number of speeders would go  
25 down if you can't lose your license anymore?

1 MS. HENN: Same objections.

2 THE WITNESS: Oh, if you  
3 can't -- sorry, excuse me. It may go  
4 up.

5 QUESTIONS BY MR. FARRELL:

6 Q. So if there's -- if there's a  
7 limited number of regulators and a fine is  
8 not substantial and you don't lose your  
9 license, are we going to have more speeders  
10 or less speeders?

11 MS. HENN: Objection to form.  
12 Outside the scope.

13 THE WITNESS: Can you rephrase  
14 that a little bit?

15 QUESTIONS BY MR. FARRELL:

16 Q. Yeah.

17 A. You rolled a few things in  
18 there.

19 Q. You know what I'm trying to get  
20 to, right? If there's not enough law  
21 enforcement and the penalty isn't  
22 prohibitive, what happens to conduct?

23 MS. HENN: Objection to form.  
24 Outside the scope.

25 THE WITNESS: Again, it's

1           speculative, but it could -- you know,  
2           behavior could change.

3       QUESTIONS BY MR. FARRELL:

4           Q.       What if you made billion of  
5       dollars by speeding, and there was not enough  
6       regulation by law enforcement and the penalty  
7       was not very big? What would that do as an  
8       incentive?

9           MS. HENN: Same objections.

10          THE WITNESS: Again, it depends  
11       on the situation, the scenario.

12       QUESTIONS BY MR. FARRELL:

13          Q.       It really depends on whether or  
14       not the individual is a law-abiding citizen  
15       or a criminal, agreed?

16          MS. HENN: Same objections.

17          Object to form. Outside the scope.

18          THE WITNESS: It's part of it.

19               (McKesson-Hartle Exhibit 15  
20       marked for identification.)

21          MR. FARRELL: Last exhibit and  
22       then we'll take a break, if that's  
23       okay.

24          MS. HENN: That works.

25       QUESTIONS BY MR. FARRELL:

1           Q.       I'm going to have marked  
2   Exhibit 15, and the exhibit in the top  
3   right-hand corner is 2004\_ 06\_17. And for  
4   those of you playing at home, this is an  
5   excerpt from another Congressional record.

6                   This Congressional record was  
7   900 pages long, and so I did not copy the  
8   whole thing; I just pulled out the part that  
9   interested me.

10                   This is part of the US Senate  
11   Permanent Subcommittee on Investigations, and  
12   it was a hearing in June of 2004. And the  
13   title of the hearing was "Buyers Beware: The  
14   Dangers of Purchasing Pharmaceuticals Over  
15   the Internet."

16                   Now, McKesson has some  
17   experience with this, agreed?

18                   MS. HENN: Objection to form.

19                   THE WITNESS: Can you define --  
20   experience. What type of experience?

21   QUESTIONS BY MR. FARRELL:

22           Q.       Well, McKesson was selling to  
23   Internet pharmacies in this time frame,  
24   agreed?

25                   MS. HENN: Objection to form.

1 THE WITNESS: I believe so.

2 QUESTIONS BY MR. FARRELL:

3 Q. Well, McKesson should know so  
4 because you paid a \$13 million fine to the  
5 DEA for doing that very thing in 2008.

6 MS. HENN: Objection to form.

7 THE WITNESS: Understood.

8 QUESTIONS BY MR. FARRELL:

9 Q. Okay. So this is a report, and  
10 it was -- if you flip to page 2, it was  
11 generated by a company called the  
12 Pharmaceutical Research Manufacturers of  
13 America. I guess they call it PhRMA.

14 Is that how you say it?

15 A. I don't know.

16 Q. Well, McKesson is a member of  
17 this organization, and so colloquially within  
18 your ranks do you call it PhRMA? PhRMA?  
19 PhRMA? What do you say?

20 MS. HENN: Counsel, I'm sorry,  
21 just a quick clarification. I'm not  
22 seeing a reference -- I see reference  
23 to Giuliani and his organization, but  
24 I don't see PhRMA.

25 Can you just point out where

1           you're seeing that?

2                   MR. FARRELL: Yeah, it's up on  
3           the screen there, and it's in the very  
4           middle.

5                   MS. HENN: Thank you. I  
6           appreciate that.

7   QUESTIONS BY MR. FARRELL:

8           Q.       So does McKesson -- first, does  
9   McKesson acknowledge that it is an associate  
10   member of the Pharmaceutical Research and  
11   Manufacturers of America?

12                   MS. HENN: Objection to form.  
13           Outside the scope.

14                   THE WITNESS: I can't speak to  
15           that. I don't know.

16   QUESTIONS BY MR. FARRELL:

17           Q.       I'll represent to you -- I'll  
18   represent to you that you are.

19           A.       Okay.

20           Q.       And do you know who this Rudy  
21   Giuliani fellow is?

22           A.       I do know who Mr. Giuliani is.

23           Q.       He's a lawyer, too, isn't he?

24           A.       He is.

25           Q.       And he was hired to do this

1 investigation by the pharmaceutical industry.

2 Do you see that?

3 MS. HENN: Objection to form.

4 Outside the scope.

5 THE WITNESS: I don't know if I

6 see where specifically it states that.

7 QUESTIONS BY MR. FARRELL:

8 Q. It says, "Giuliani Partners has  
9 been" --

10 A. Oh, in the middle. Okay.

11 Sorry.

12 Q. They have been retained by  
13 PhRMA to do an evaluation.

14 A. Understood. I see that.

15 Q. Now what I'm going to have you  
16 do is I'm going to have you flip over to  
17 page 4, and it's interesting what Rudy  
18 Giuliani found.

19 Do you see where it says "the  
20 distribution chain"?

21 It says, "On its face, it  
22 appears that the distribution chain for  
23 prescription medicines in the United States  
24 is fairly straightforward."

25 A. I was on the wrong number 4.

1 I see where it says that.

2 Q. And it says, "Manufacturers  
3 sell their products to wholesalers."

4 That'd be you, McKesson,  
5 correct?

6 A. Correct.

7 Q. "Who, in turn, sell the  
8 products to retail pharmacies and stores,  
9 who, in turn, dispense medicines to patients  
10 with prescriptions."

11 Do you see that?

12 A. Yes.

13 Q. And that's a straightforward  
14 system is what Rudy Giuliani is saying.

15 Will you read the next  
16 sentence, please?

17 A. "It is not until the system is  
18 studied in greater detail that one begins to  
19 appreciate both the complexities and the  
20 vulnerability of the distribution chain and  
21 potential for exploitation or abuse."

22 Q. So big pharma is acknowledging  
23 in 2004, through hiring their own expert in  
24 presenting to Congress, that this chain of  
25 distribution that McKesson is engaged in is

1 complex and vulnerable for exploitation or  
2 abuse, agreed?

3 MS. HENN: Objection to form.  
4 Outside the scope.

5 THE WITNESS: It's what they  
6 listed in here and documented, yes.

7 QUESTIONS BY MR. FARRELL:

8 Q. And the very first factor for  
9 contributing factors, will you read aloud  
10 what it says?

11 A. "Wholesalers or distributors  
12 are primarily regulated by the states, with  
13 no uniform standards across state borders.  
14 States have a comparatively small number of  
15 investigators to monitor the licensed  
16 wholesalers; thus, given the sheer number of  
17 wholesalers, oversight is minimal."

18 Q. In the very next paragraph it  
19 says, "There are thousands of secondary  
20 pharmaceutical wholesalers in addition to  
21 McKesson, AmerisourceBergen and Cardinal  
22 Health, the big three."

23 Do you see that sentence?

24 A. I see that.

25 Q. So this is a recognition by big

1     pharma's own consultant that the chain of  
2     distribution, at least in 2004 with respect  
3     to rogue Internet pharmacies in particular,  
4     was subject to exploitation or abuse.

5                     MS. HENN:  Objection to form.

6                     Outside the scope.

7     QUESTIONS BY MR. FARRELL:

8                     Q.        Agreed that's what it says?

9                     MS. HENN:  Same objections.

10                    THE WITNESS:  Agree that's what  
11                    it says.

12     QUESTIONS BY MR. FARRELL:

13                    Q.        And in fact, McKesson paid a  
14     fine for some of these exploitations and  
15     abuse in 2008.

16                    MS. HENN:  Objection to form.

17     QUESTIONS BY MR. FARRELL:

18                    Q.        Agreed?

19                    A.        There was a fine as part of the  
20     settlement.

21                    Q.        Related to this specific topic?

22                    MS. HENN:  Objection to form.

23                    THE WITNESS:  It was included  
24     in the settlement.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. So yes?

3 A. Yes.

4 Q. So in 2004, we've got big  
5 pharma acknowledging the chain of custody for  
6 wholesalers is subject to exploitation or  
7 abuse because of a lack of oversight?

8 MS. HENN: Objection to form.  
9 Outside the scope.

10 THE WITNESS: Would you say  
11 that again? Ask --

12 QUESTIONS BY MR. FARRELL:

13 Q. In 2004, big pharma hired Rudy  
14 Giuliani's firm to do an evaluation of the  
15 chain of distribution of prescription  
16 medicines, and what he found was that the  
17 chain of distribution was subject to  
18 exploitation or abuse because of lack of  
19 oversight?

20 A. That's what's stated in the  
21 document, correct.

22 Q. And that during this time  
23 frame, McKesson paid a fine for that very  
24 thing?

25 MS. HENN: Objection to form.

1 THE WITNESS: In the 2008  
2 settlement, yes.

3 QUESTIONS BY MR. FARRELL:

4 Q. And that fine was related to  
5 McKesson selling an unusual size of  
6 prescription opiate pills to rogue Internet  
7 pharmacies?

8 MS. HENN: Objection to form.

9 THE WITNESS: Can you ask that  
10 again, one more time? Sorry.

11 QUESTIONS BY MR. FARRELL:

12 Q. Yeah.

13 In this time frame, McKesson  
14 ended up paying a fine to the DEA for selling  
15 too many opium pills to rogue Internet  
16 pharmacies in violation of federal law?

17 MS. HENN: Objection to form.

18 THE WITNESS: To be accurate,  
19 I'd have to look at the document again  
20 in terms of specific language, but it  
21 was part of the settlement.

22 QUESTIONS BY MR. FARRELL:

23 Q. We'll get to that after lunch.

24 A. Okay.

25 Q. But you acknowledge that what

1 Rudy Giuliani said in 2004 came home to roost  
2 with McKesson when it paid a fine in 2008?

3 MS. HENN: Objection to form.  
4 Outside the scope.

5 THE WITNESS: I don't know if I  
6 would characterize it as coming home  
7 to roost, but they're connected or  
8 they're related.

9 MR. FARRELL: Take a break.

10 VIDEOGRAPHER: The time is  
11 12:04 p.m. We're going off the  
12 record.

13 (Off the record at 12:04 p.m.)

14 VIDEOGRAPHER: The time is  
15 1:05 p.m. We're back on the record.

16 (McKesson-Hartle Exhibit 16  
17 marked for identification.)

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to reference  
20 Exhibit 16 which we've just had marked. The  
21 top right-hand corner is 2006\_09\_27,  
22 Bates-stamped MCKMDL00478906.

23 Do you recognize this document?

24 A. I do.

25 Q. What is it?

1           A.       It's a letter from DEA to  
2 registrants from Joe Rannazzisi.

3           Q.       Is this -- you might need help  
4 with counsel a little bit on this.

5                    I don't see where this letter  
6 is addressed to McKesson as the recipient;  
7 however, this document was produced by  
8 McKesson. And I'm assuming this is the 2006  
9 Rannazzisi letter that was sent to McKesson.

10                   Is that your understanding?

11          A.       Yes.

12          Q.       So there's no question  
13 September 27, 2006, McKesson received this  
14 communication.

15                   Do you know whether or not  
16 there was one document sent to McKesson or  
17 there was a letter sent to each of your  
18 distribution facilities?

19          A.       That, I do not know.

20                   MR. FARRELL: Okay. Can I ask,  
21 Counsel, do you know?

22                   MS. HENN: I'm sorry, I don't.

23       QUESTIONS BY MR. FARRELL:

24          Q.       Anyway, if in fact there is  
25 another document that has a specific one,

1     you'll agree with me that all of these 2006  
2     letters that were sent out, they were sent  
3     out to all the registrants across the  
4     country?

5                     MS. HENN:  Objection to form.

6                     THE WITNESS:  Yeah, that's what  
7             I believe to be the case, yeah.

8     QUESTIONS BY MR. FARRELL:

9             Q.       In fact, the first sentence  
10    says --

11            A.       Right.

12            Q.       -- this letter is being sent to  
13    every commercial entity in the United  
14    States --

15            A.       Right.

16            Q.       -- registered --

17            A.       Whether it went to all of our  
18    individual DCs, I can't confirm, but --

19            Q.       But sitting here today as the  
20    McKesson corporate designee, you acknowledge  
21    receipt of the September 27, 2006 letter from  
22    Joe Rannazzisi?

23            A.       Yes.

24            [REDACTED]

[REDACTED]

21 QUESTIONS BY MR. FARRELL:

22 Q. Okay.

23           A.       I don't believe so.

24 Q. I've got some things that we'll  
25 go through. What I'm really curious about,

A horizontal bar chart titled 'U.S. should take action to address climate change' showing the percentage of respondents who believe the U.S. should take action to address climate change, broken down by age group. The y-axis lists age groups: 18-29, 30-49, 50-64, 65+, and 75+. The x-axis represents the percentage, ranging from 0% to 100%. The bars are dark blue. The data is as follows:

Age Group	Percentage
18-29	100%
30-49	92%
50-64	78%
65+	72%
75+	58%

Category	Percentage	Percentage
Very good	10%	10%
Good	20%	20%
Not good	70%	70%

13 Q. Okay. This letter was  
14 received.

15 Do you know whether or not it  
16 was circulated amongst McKesson or it was  
17 discussed or reviewed or analyzed?

18 MS. HENN: Objection to form.

19 THE WITNESS: I'm not  
20 100 percent sure I know who all  
21 received it, so I can't answer that --  
22 I can't answer that specifically.

23 QUESTIONS BY MR. FARRELL:

24 Q. Did McKesson change its conduct  
25 at all based upon this correspondence?

1           A.       From what I understand in  
2   talking with a former McKesson employee  
3   before this deposition, this was mostly a  
4   confirmation or a reiteration of the  
5   regulations, which McKesson knew, and  
6   highlighting things that were -- you know,  
7   that the team was doing. And it was sort of  
8   a validation of some of the things that they  
9   had been doing, so the red flags and things  
10  like that. So not significant changes that  
11  I'm aware of.

12           Q.       Have you had an opportunity to  
13  review the 2006 Rannazzisi letter in  
14  preparation for today's deposition?

15           A.       Yes.

16           Q.       On behalf of McKesson  
17  Corporation, are you willing to affirm,  
18  acknowledge and validate all of the  
19  statements Mr. Rannazzisi places in his  
20  September 27, 2006 correspondence?

21                   MS. HENN: Objection to form.  
22           Outside the scope.

23                   THE WITNESS: Could you be more  
24           specific? Validate every single  
25           statement and...

1 QUESTIONS BY MR. FARRELL:

2 Q. Yeah.

3 Paragraph C of the 30(b)(6)  
4 notice asks for "testimony regarding  
5 McKesson's past and present interpretation,  
6 compliance, agreement and/or disagreement  
7 with this letter from the DEA outlining the  
8 duties imposed on a distributor under federal  
9 law."

10 So let's start with this: Is  
11 there anything in this letter that you  
12 disagree with?

13 MS. HENN: Objection to form.

14 THE WITNESS: I don't believe  
15 there's anything I would disagree  
16 with.

17 QUESTIONS BY MR. FARRELL:

18 Q. Is this an accurate statement  
19 of the law?

20 MS. HENN: Objection to form.

21 THE WITNESS: I believe it is.

22 QUESTIONS BY MR. FARRELL:

23 Q. So as of September 27, 2006,  
24 the DEA is advising McKesson -- not advising,  
25 but referencing the fact that there was a

1 prescription drug abuse problem in the United  
2 States of America. That's in the very first  
3 paragraph.

4 Does McKesson acknowledge that?

5 A. Yes.

6 Q. The next sentence says, "As  
7 each of you is undoubtedly aware, the abuse,  
8 nonmedical use, of controlled prescription  
9 drugs is a serious and growing health problem  
10 in the country."

11 Does McKesson agree and  
12 acknowledge that fact as of 2006?

13 MS. HENN: Objection to form.

14 THE WITNESS: Yes.

15 QUESTIONS BY MR. FARRELL:

16 Q. The next full paragraph says,  
17 "The Controlled Substances Act was designed  
18 by Congress to combat diversion by providing  
19 for a closed system of drug distribution in  
20 which all legitimate handlers of controlled  
21 substances must obtain a DEA registration; as  
22 a condition of maintaining such registration,  
23 must take reasonable steps to ensure that  
24 their registration is not being utilized as a  
25 source of diversion."

1 Does McKesson acknowledge and  
2 agree with that statement?

3 MS. HENN: Objection to form.

4 THE WITNESS: I agree with  
5 that.

6 QUESTIONS BY MR. FARRELL:

7 Q. I'd like you to read the next  
8 sentence aloud, please.

9 A. Where it starts "distributors  
10 are"?

11 Q. Yes.

12 A. "Distributors are, of course,  
13 one of the key components of the distribution  
14 chain."

15 Q. Keep going, please.

16 A. You want me to read the whole  
17 paragraph? Okay.

18 "If the closed system is to  
19 function properly as Congress envisioned,  
20 distributors must be vigilant in deciding  
21 whether a prospective customer can be trusted  
22 to deliver controlled substances only for  
23 lawful purposes. The responsibility is  
24 critical, as Congress has expressly declared  
25 that the illegal distribution of controlled

1 substances has a substantial and detrimental  
2 effect on the health and general welfare of  
3 the American people."

4 Q. So again, this is the DEA  
5 reiterating what we've discussed before:  
6 that failing to abide by the Code of Federal  
7 Regulations has a substantial and detrimental  
8 effect on the health and general welfare of  
9 the American people.

10 Does McKesson agree and  
11 acknowledge with that fact?

12 MS. HENN: Objection to form.

13 THE WITNESS: Yes.

14 QUESTIONS BY MR. FARRELL:

15 Q. Go to the next page, page 2,  
16 the second full paragraph. It says,  
17 "Nonetheless, given the extent of  
18 prescription drug abuse in the United States,  
19 along with the potential -- along with  
20 dangerous and potentially lethal consequences  
21 of such abuse" -- will you please finish that  
22 sentence?

23 A. "Even just one distributor that  
24 uses its DEA registration to facilitate  
25 diversion can cause enormous harm."

1           Q.       Does McKesson acknowledge and  
2       accept that fact?

3                   MS. HENN:  Objection to form.

4                   THE WITNESS:  I agree with  
5       that.

6       QUESTIONS BY MR. FARRELL:

7           Q.       If you go down to the third to  
8       last paragraph, it says, "In addition to  
9       reporting all suspicious orders, a  
10      distributor has a statutory responsibility to  
11      exercise due diligence to avoid filling  
12      suspicious orders that might be diverted into  
13      other than legitimate medical, scientific and  
14      industrial channels."

15                   Does McKesson acknowledge and  
16      accept that to be true?

17                   MS. HENN:  Objection to form.

18                   THE WITNESS:  Yes.

19      QUESTIONS BY MR. FARRELL:

20           Q.       And then the last sentence of  
21      the next paragraph says at the end, "The  
22      distributor should exercise due care in  
23      confirming the legitimacy of all orders prior  
24      to filing."

25                   Do you see that sentence?

1                   Not "filing."   "Prior to  
2   filling."

3           A.       I see that sentence.

4           Q.       All right.   Since I butchered  
5   that sentence, will you please read the last  
6   sentence that's highlighted on the screen?

7           A.       "The distributor should  
8   exercise due care in confirming the  
9   legitimacy of all orders prior to filling."

10          Q.       Now, this is in September  
11   of 2006, agreed?

12          A.       Agreed.

13          Q.       And this is a clear statement  
14   from the DEA; would you agree with that?

15          A.       I would agree with that.

16          Q.       McKesson's official position is  
17   that when it received communications from the  
18   DEA, the DEA was clear as of 2006?

19                   MS. HENN:   Objection to form.  
20                   Also beyond the scope.

21                   THE WITNESS:   The only question  
22                   I would have about possibility is due  
23                   care, what the definition of what due  
24                   care means.  
25

1 QUESTIONS BY MR. FARRELL:

2 Q. Okay. Fair. Fair enough.

3 If you flip to the next page,  
4 there's a laundry list of due care.

5 Do you agree on page 3 going  
6 through this, the DEA was clear with McKesson  
7 about the circumstances that might be  
8 indicative of diversion?

9 MS. HENN: Objection to form.

10 THE WITNESS: I wouldn't  
11 classify these -- I wouldn't call them  
12 due care. These are to be red flags,  
13 indicators.

14 QUESTIONS BY MR. FARRELL:

15 Q. So in 2006, the DEA is telling  
16 McKesson, you have to exercise due care prior  
17 to filling an order which you deem to be  
18 suspicious, agreed?

19 MS. HENN: Objection to form.

20 THE WITNESS: Could you ask  
21 that again? Restate that?

22 QUESTIONS BY MR. FARRELL:

23 Q. In 2006, the DEA is telling  
24 McKesson, you have to exercise due care prior  
25 to filling an order which you deem to be

1 suspicious, agreed?

2 A. That's what's in the document,  
3 yes.

4 Q. Okay. Do you disagree with  
5 that?

6 A. That they shared that, they --  
7 I don't disagree with that.

8 Q. Yet your Section 55 policy, you  
9 testified this morning, you were shipping  
10 suspicious orders?

11 MS. HENN: Objection to form.

12 THE WITNESS: There was a  
13 process by which those reports were  
14 reviewed, which I would consider to be  
15 part of due care in a review.

16 QUESTIONS BY MR. FARRELL:

17 Q. Is there a due care file for  
18 each of those?

19 MS. HENN: Objection to form.

20 THE WITNESS: Not that I'm  
21 aware of.

22 QUESTIONS BY MR. FARRELL:

23 Q. So there's no documentation of  
24 the due care of each suspicious order that  
25 was shipped by McKesson in accordance with

1 the July 2000 policies and procedures?

2 MS. HENN: Objection to form.

3 THE WITNESS: Could you restate  
4 that, please?

5 QUESTIONS BY MR. FARRELL:

6 Q. Is there any documentation of  
7 the due care performed by McKesson from  
8 July 2000 onward pursuant to Section 55 with  
9 regard to suspicious orders that were  
10 shipped?

11 MS. HENN: Objection to form.  
12 Outside the scope.

13 THE WITNESS: I can't speak to  
14 the specific documentation and how it  
15 was documented those reviews that were  
16 conducted of those specific reports  
17 that were generated. Could have been  
18 documentation on a form.

19 QUESTIONS BY MR. FARRELL:

20 Q. Have you seen such  
21 documentation?

22 MS. HENN: Objection to form.

23 THE WITNESS: I haven't  
24 personally seen examples of that.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Have you seen any piece of  
3 paper that indicates that the suspicious  
4 orders that were shipped were subject to a  
5 due diligence review beforehand, from  
6 July 2000 to 2007?

7 MS. HENN: Objection to form.  
8 Outside the scope.

9 QUESTIONS BY MR. FARRELL:

10 Q. It doesn't mean they don't  
11 exist.

12 A. Right.

13 Q. I'm just asking if you've seen  
14 them.

15 MS. HENN: Same objections.

16 THE WITNESS: I don't believe  
17 I've seen -- I haven't seen examples.

18 QUESTIONS BY MR. FARRELL:

19 Q. So you're taking it on faith  
20 that due diligence was, in fact, performed?

21 MS. HENN: Objection to form.  
22 Outside the scope.

23 THE WITNESS: From what I  
24 understand and some of the  
25 conversations I've had, that due

1 diligence processes did happen and  
2 exist, yes.

3 QUESTIONS BY MR. FARRELL:

4 Q. Well, you'll agree with me that  
5 Section 55 seems to indicate that there's no  
6 subjective involvement regarding the  
7 reporting of suspicious orders; it was a  
8 statistical fact.

9 MS. HENN: Objection to form.  
10 Outside the scope.

11 THE WITNESS: Can you ask that  
12 one again?

13 QUESTIONS BY MR. FARRELL:

14 Q. Yeah, I'm not trying to play  
15 word games.

16 A. I know.

17 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

24 MS. HENN: Objection to form.  
25 Outside the scope.

1 THE WITNESS: Agreed.

2 QUESTIONS BY MR. FARRELL:

3 Q. So every single order that was  
4 deemed suspicious by your monitoring program  
5 should have been reported to the DEA from  
6 July 2000, at least through Rannazzisi's 2006  
7 letter?

8 MS. HENN: Objection to form.  
9 Outside the scope.

10 THE WITNESS: I believe that's  
11 the case, to have faxed that or sent  
12 it to the local diversion office.

13 QUESTIONS BY MR. FARRELL:

14 Q. If McKesson did not report  
15 those orders, it was in violation of federal  
16 law, agreed?

17 MS. HENN: Objection to form.  
18 Outside the scope.

19 THE WITNESS: Can you ask that  
20 one again or restate?

21 QUESTIONS BY MR. FARRELL:

22 Q. Yeah. It's a hypothetical.

23 A. Right.

24 Q. If McKesson did not report  
25 suspicious orders detected following the

1 July 2000 Section 55 policy -- let me start  
2 over. Let me see if I can make this as  
3 simple as possible.

4 Beginning in July of the year  
5 2000 --

6 A. Okay.

7 Q. -- if McKesson did not report a  
8 suspicious order it detected pursuant to the  
9 Section 55 policy, McKesson was in violation  
10 of federal law; agreed or disagree?

11 MS. HENN: Objection to form.

12 Outside the scope.

13 THE WITNESS: I agree that it  
14 would -- it's -- I don't know. Maybe  
15 ask it again. I apologize for pausing  
16 here.

17 QUESTIONS BY MR. FARRELL:

18 Q. It's an important question.

19 A. Yeah.

20 Q. McKesson has a statutory and  
21 regulatory responsibility under federal  
22 law --

23 A. Right.

24 Q. -- to report suspicious orders  
25 to the DEA?

1 A. Correct.

2 Q. McKesson, in July of 2000,  
3 adopted a policy that we've been referring to  
4 as Section 55 --

5 A. Correct.

6 Q. -- to do that very thing?

7 A. Correct.

8 Q. That policy states that it's  
9 not a subjective determination of whether to  
10 report; it's a statistical fact of whether  
11 you should report?

12 MS. HENN: Objection to form.

13 THE WITNESS: The report is a  
14 statistical -- a statistically  
15 generated one, yes.

16 QUESTIONS BY MR. FARRELL:

17 Q. And whether to report it to the  
18 DEA is not a subjective determination; it's  
19 mandatory if you detect a suspicious order?

20 MS. HENN: Objection to form.

21 Outside the scope.

22 THE WITNESS: I believe that to  
23 be the case.

24 QUESTIONS BY MR. FARRELL:

25 Q. So if you didn't do that, it's

1 a violation of federal law?

2 MS. HENN: Objection to form.

3 Outside the scope.

4 THE WITNESS: I believe so.

5 QUESTIONS BY MR. FARRELL:

6 Q. Big if, right?

7 A. If, right.

8 Q. If that happened, if McKesson  
9 detected a suspicious order following the  
10 Section 55 enactment and did not report it to  
11 the DEA, that's a violation of federal law?

12 A. If.

13 MS. HENN: Objection to form.

14 (McKesson-Hartle Exhibit 17  
15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. I'm going to mark what's going  
18 to be Exhibit 17. The document ID is  
19 2007\_04\_25. I apologize, there is no MDL  
20 Bates stamp that I could locate; however,  
21 there is a prior production Bates stamp of  
22 MCK-HOI-002 dash a whole bunch of zeros and  
23 then 1.

24 I'll give you a few minutes to  
25 look through this.

1                   Sir, have you seen this  
2   document before today?

3           A.       I don't believe I've seen this  
4   specific one.

5           Q.       I'll give you a minute to  
6   review.

7           A.       Okay. I've read that. Thank  
8   you for taking the time.

9           Q.       No problem.  
10                   So to start off with on this  
11   exhibit, you acknowledge that there was a  
12   meeting with the DEA on April 5, 2007. It's  
13   from the very first paragraph.

14          A.       Yes.

15          Q.       So at this point in time, the  
16   DEA had issued an order to show cause against  
17   McKesson, agreed?

18          A.       Correct.

19          Q.       I've yet to see any  
20   documentation of anything that predates  
21   April 25, 2007, related to this  
22   investigation.

23                   Have you seen such documents?

24                   MS. HENN: Objection to form.

25                   THE WITNESS: I don't believe

1 so, no.

2 QUESTIONS BY MR. FARRELL:

3 Q. To the extent that such  
4 documents do exist, we again reserve our  
5 right to come back and discuss them further,  
6 subject to the objection of counsel.

7 But for what we have here, this  
8 appears that at least in April of 2007, the  
9 DEA had already issued a rule to show cause  
10 complaining that one of your distribution  
11 centers was not following federal law,  
12 agreed?

13 MS. HENN: Objection to form.

14 THE WITNESS: That's what they  
15 alleged.

16 QUESTIONS BY MR. FARRELL:

17 Q. When you go to page 2 under  
18 Proposed Action Plan, does this indicate to  
19 you that McKesson is acknowledging that they  
20 need to do better to comply with federal law?

21 MS. HENN: Objection to form.

22 THE WITNESS: I think this is  
23 acknowledge -- excuse me --  
24 acknowledgement of just improvements  
25 in the program, taking information in

1       to evolve the program based on  
2       collaboration with DEA and information  
3       they're receiving.

4 QUESTIONS BY MR. FARRELL:

5 Q. You're in management, are you  
6 not?

7                    A.        I am.

8 Q. And have you ever written a  
9 proposed action plan for an employee?

10                    A.        I have.

11 Q. And is it just to document  
12 something new, or are you trying to correct  
13 something?

14 MS. HENN: Objection to form.

15 THE WITNESS: There can be many  
16 different types of action plans. I've  
17 done both.

18 QUESTIONS BY MR. FARRELL:

Group	U.S. should take action	U.S. should not take action	U.S. should take action if it can do so without harming innocent civilians	U.S. should not take action if it can do so without harming innocent civilians
All respondents	77%	17%	4%	2%
U.S.-born respondents	81%	15%	3%	1%
Foreign-born respondents	73%	21%	4%	2%
U.S.-born respondents who are Muslim	79%	17%	3%	1%

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 QUESTIONS BY MR. FARRELL:

13 Q. As a McKesson corporate  
14 designee, are you willing to admit here today  
15 that as of April 25, 2007, McKesson was not  
16 fulfilling its obligations under federal law  
17 regarding the monitoring of the distribution  
18 of controlled substances?

19 MS. HENN: Objection to form.

20 THE WITNESS: Can you ask that  
21 again, please?

22 QUESTIONS BY MR. FARRELL:

23 Q. As a McKesson corporate  
24 designee, are you willing to admit here today  
25 that as of April 25, 2007, McKesson was not

1 fulfilling its obligations under federal law  
2 regarding the distribution of controlled  
3 substances?

4 MS. HENN: Objection to form.

5 THE WITNESS: I believe in  
6 partnership with DEA and always in  
7 good faith, McKesson was believed to  
8 be compliant with the regulations.

9 QUESTIONS BY MR. FARRELL:

10 Q. I understand that McKesson as a  
11 corporate entity -- McKesson, it's not a  
12 person, right? McKesson Corporation is a  
13 fictional piece of paper that creates a  
14 business model, agreed?

15 MS. HENN: Objection to form.

16 QUESTIONS BY MR. FARRELL:

17 Q. Is there a Mr. McKesson still  
18 running the company?

19 A. No, there's not.

20 Q. All right. So McKesson is a  
21 corporation?

22 A. Agreed. I understand that.

23 Q. And in April of 2007, it was  
24 meeting with the federal government, the DEA,  
25 and changing the way it was doing business,

1       agreed?

2                       MS. HENN:  Objection to form.

3                       THE WITNESS:  Changing,  
4               enhancing, adding.

5       QUESTIONS BY MR. FARRELL:

6               Q.       Okay.  And in part, it was  
7       because McKesson was not fulfilling its  
8       obligations under federal law?

9                       MS. HENN:  Objection to form.

10      QUESTIONS BY MR. FARRELL:

11              Q.       Can that even be disputed?

12                      MS. HENN:  Same objection.

13      QUESTIONS BY MR. FARRELL:

14              Q.       You paid a \$13 million fine as  
15      a result of this investigation.

16                      Can you not acknowledge today,  
17      in 2007 there were shortcomings in your  
18      controlled substance monitoring program?

19                      MS. HENN:  Objection to form.

20                      THE WITNESS:  We denied those  
21               allegations in that settlement, and we  
22               obviously -- as any program does,  
23               wants to improve and expand and take  
24               new information in.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. So you paid \$13 million as a  
3 tax write-off?

4 MS. HENN: Objection to form.

5 THE WITNESS: As a settlement  
6 between both parties.

7 QUESTIONS BY MR. FARRELL:

8 Q. To settle what? Allegations of  
9 what?

10 MS. HENN: Objection to form.

11 THE WITNESS: Issues related to  
12 the regulations.

13 QUESTIONS BY MR. FARRELL:

14 Q. The allegations were that  
15 McKesson was not fulfilling its obligations  
16 under federal law, agreed?

17 A. That was the allegations.

18 Q. And McKesson wrote an action  
19 plan and paid a fine to the DEA to get a  
20 release for its conduct?

21 MS. HENN: Objection to form.

22 THE WITNESS: I think that's  
23 accurate. We did.

24 QUESTIONS BY MR. FARRELL:

[illegible]

A horizontal bar chart with 20 rows. Each row has a small square on the left and a corresponding horizontal bar. The bars vary in length and position, representing different percentages. The bars are gray, and the background is white. The chart is enclosed in a black border.

Category	Percentage
1	15%
2	25%
3	45%
4	35%
5	10%
6	20%
7	55%
8	65%
9	75%
10	60%
11	10%
12	30%
13	10%
14	20%
15	65%
16	25%
17	35%
18	55%
19	65%
20	75%

[illegible]

[illegible]



[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. In fact, nobody in the country  
13 was doing thresholds prior to this?

14 MS. HENN: Objection to form.  
15 Outside the scope.

16 THE WITNESS: I'm not aware if  
17 others were.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED] [REDACTED]  
■ [REDACTED] [REDACTED]  
■ [REDACTED]

4 QUESTIONS BY MR. FARRELL:

5 Q. So going back to the 2006  
6 Rannazzisi letter, this is an acknowledgement  
7 under the shipping requirement that you must  
8 halt suspicious orders until due diligence is  
9 performed?

10 MS. HENN: Objection to form.

11 THE WITNESS: Can you ask that  
12 again or restate that, please?

13 QUESTIONS BY MR. FARRELL:

14 Q. Mr. Rannazzisi, in his 2006  
15 letter from the DEA to McKesson, informed  
16 McKesson of its duty to halt suspicious  
17 orders, agreed?

18 A. Was that the specific language  
19 or was that the due --

20 Q. We can go back and take a look  
21 at it.

22 A. Yeah. Exercise due care.

23 Q. I mean, I don't care what  
24 standard we're using right now; you can say  
25 due diligence or due care. But the idea

1     being is in 2006, the DEA is telling McKesson  
2     if you get a suspicious order, you have to  
3     halt and you cannot ship it until you look  
4     into it.

5                     MS. HENN:  Objection to form.

6                     THE WITNESS:  Can we look at  
7             that specific language?

8     QUESTIONS BY MR. FARRELL:

9             Q.       Sure.

10            A.       Can you point it out to me?

11            Q.       I hope so.  2006\_09\_27, page 2,  
12     beginning with the paragraph, "Thus,"  
13     two-thirds of the way down, "in addition to  
14     reporting all suspicious orders" -- right?  
15     What does that say?  "In addition to  
16     reporting all suspicious orders."

17                     "All" means what?

18            A.       All.

19            Q.       So if you get a suspicious  
20     order, what is McKesson supposed to do?

21            A.       To report it.

22            Q.       And if you don't, is that  
23     lawful or unlawful?

24                     MS. HENN:  Objection to form.

25                     THE WITNESS:  That doesn't meet

1 the expectation or the guideline that  
2 they lay out in this communication.

3 QUESTIONS BY MR. FARRELL:

4 Q. Which makes -- and that  
5 guideline is premised upon what?

6 MS. HENN: Objection to form.

7 THE WITNESS: The CFR.

8 QUESTIONS BY MR. FARRELL:

9 Q. And so that makes it lawful or  
10 unlawful?

11 MS. HENN: Objection to form.

12 THE WITNESS: Unlawful.

13 QUESTIONS BY MR. FARRELL:

14 Q. The next part: "A distributor  
15 has a statutory responsibility to exercise  
16 due diligence to avoid filling suspicious  
17 orders."

18 Agreed?

19 A. I agree with that language. It  
20 doesn't say -- that's not halt.

21 Q. Well, it's a halt until you do  
22 due diligence --

23 A. Yeah.

24 Q. -- right?

25 A. It's not a block. Yeah, it's

1 a...

2 Q. Maybe this is just a  
3 terminology issue.

4 A. Might be.

5 Q. Block -- all I'm saying is, is  
6 that McKesson's not allowed to ship a  
7 suspicious order without looking into it  
8 first, agreed?

9 MS. HENN: Objection to form.

10 THE WITNESS: That's how I read  
11 that language.

12 QUESTIONS BY MR. FARRELL:

13 Q. That is the law?

14 A. Yeah.

15 Q. Yes?

16 MS. HENN: Objection to form.

17 THE WITNESS: The law is to  
18 design a system to identify suspicious  
19 orders.

20 QUESTIONS BY MR. FARRELL:

21 Q. That's one part of the law.

22 A. Right.

23 Q. What does the CFR say?

24 MS. HENN: Objection to form.

25 THE WITNESS: To identify

1 orders of unusual size, pattern and  
2 frequency.

3 QUESTIONS BY MR. FARRELL:

4 Q. And so if you ship a suspicious  
5 order without doing due diligence, is that  
6 lawful or unlawful?

7 MS. HENN: Objection to form.

8 THE WITNESS: Again, I'm -- the  
9 CFR says you must design and operate a  
10 system, right, and to identify  
11 suspicious orders. I don't believe it  
12 says to halt them.

13 QUESTIONS BY MR. FARRELL:

14 Q. It does?

15 A. In that specific language.

16 Q. It does or does not?

17 A. Does not.

18 Q. Is your interpretation of  
19 federal law that you're allowed to ship a  
20 suspicious order without conducting due  
21 diligence?

22 MS. HENN: Objection to form.

23 QUESTIONS BY MR. FARRELL:

24 Q. Maybe this explains why  
25 McKesson paid a \$150 million fine.

1 MS. HENN: Objection to form.

2 QUESTIONS BY MR. FARRELL:

3 Q. Let's get back to it.

4 Masters Pharmaceutical has a  
5 reporting requirement and a shipping  
6 requirement. We reviewed it this morning,  
7 agreed?

8 A. Parts of it, correct. Agreed.

9 Q. It's premised upon a code  
10 provision. The United States Congress passed  
11 a US Code provision in 1970, agreed?

12 A. Agreed.

13 Q. And it passed -- the Department  
14 of Justice enacted regulations which are  
15 binding as federal law related to this very  
16 topic, agreed?

17 A. Agreed.

18 Q. And if you don't follow those  
19 rules, McKesson can be fined by the federal  
20 government?

21 A. Agreed.

22 Q. McKesson's been fined twice  
23 that I know of, once for 13 million in 2008  
24 and once for 150 million in 2017, for  
25 violating these very laws.

1 MS. HENN: Objection to form.

2 THE WITNESS: That's what was  
3 alleged.

4 QUESTIONS BY MR. FARRELL:

5 Q. So my question to you is: Is  
6 that the shipping requirement that you have  
7 to halt a suspicious order under federal law  
8 until you do due diligence is and always has  
9 been the law in the United States of America?

10 MS. HENN: Objection to form.  
11 Outside the scope.

12 THE WITNESS: Can you ask that  
13 again, please?

14 QUESTIONS BY MR. FARRELL:

15 Q. The shipping requirement and  
16 the reporting requirement as outlined in the  
17 Masters Pharmaceutical case is and always has  
18 been the law in the United States of America?

19 MS. HENN: Objection to form.  
20 Outside the scope.

21 THE WITNESS: I believe that's  
22 the law. I mean...

23 QUESTIONS BY MR. FARRELL:

24 Q. Well, you're McKesson --

25 MS. HENN: Did you finish your

1 answer?

2 THE WITNESS: I did. I didn't  
3 really have a -- yeah.

4 MS. HENN: Okay. Just making  
5 sure.

6 QUESTIONS BY MR. FARRELL:

7 Q. So your answer is yes?

8 MS. HENN: Objection to form.

9 THE WITNESS: Yes.

10 QUESTIONS BY MR. FARRELL:

11 Q. I don't want to -- I don't want  
12 you to hesitate.

13 A. I'm not a legal expert.

14 Q. I'm not asking you to be a  
15 legal expert.

16 A. Right.

17 Q. I'm asking McKesson  
18 Corporation -- I know this -- to be fair, I  
19 understand you are in a role with McKesson  
20 being asked to step in the shoes of a  
21 corporation and answer on its behalf.

22 A. Right.

23 Q. So I'm not trying to be rude,  
24 and I know I'm pressing you.

25 A. Right.

1           Q.       But what I'm trying to do is,  
2     for the record, create McKesson's position.  
3     And I've asked for McKesson to designate  
4     someone to announce its position, and  
5     fortunately it's you.

6                     So let me repeat the question.  
7     The shipping requirement and the reporting  
8     requirement as outlined and defined in the  
9     Masters Pharmaceutical case is and always has  
10    been the law in the United States of America;  
11    agree or disagree?

12                    MS. HENN:   Object to the form  
13                    of the question.   It's outside the  
14                    scope.

15                    THE WITNESS:   I agree that  
16                    that's the law.

17    QUESTIONS BY MR. FARRELL:

18           Q.       And if you don't follow the  
19    law, that makes it unlawful?

20                    MS. HENN:   Objection to form.

21                    THE WITNESS:   If you don't  
22                    follow a law, that would be unlawful.

23    QUESTIONS BY MR. FARRELL:

24           Q.       And if you don't follow the  
25    shipping requirement, that's unlawful?

1 MS. HENN: Objection to form.

2 THE WITNESS: And if you don't  
3 follow the law, I would agree.

4 QUESTIONS BY MR. FARRELL:

5 Q. And if you don't follow the  
6 reporting requirement, that's the law?

7 MS. HENN: Objection to form.

8 THE WITNESS: Again, if you  
9 don't follow the law, if you don't  
10 follow the guidelines, it would be  
11 unlawful.

12 QUESTIONS BY MR. FARRELL:

13 Q. So when you look at paragraph 7  
14 of Exhibit 17, the 2007 correspondence from  
15 McKesson to the DEA, you are announcing that  
16 you're going to adopt new measures,  
17 additional measures, revised, amended,  
18 changed, more measures, to comply with  
19 federal law?

20 MS. HENN: Objection to form.

21 QUESTIONS BY MR. FARRELL:

22 Q. Agree or disagreed?

23 MS. HENN: Objection to form.

24 THE WITNESS: We're  
25 communicating that we were enhancing

1 the program.

2 QUESTIONS BY MR. FARRELL:

3 Q. In response to allegations that  
4 you were not fulfilling your obligations  
5 under the shipping requirement and reporting  
6 requirement?

7 MS. HENN: Objection to form.

8 THE WITNESS: In part due to  
9 allegations.

10 QUESTIONS BY MR. FARRELL:

11 Q. Now, this letter is addressed  
12 to Linden Barber.

13 Do you know who Linden Barber  
14 is?

15 A. I've heard of Linden Barber.

16 Q. How have you heard of him?

17 A. Just in my past experience even  
18 prior to McKesson, knowing he was in DEA.

19 Q. Do you know where he is now?

20 A. He's at Cardinal.

21 Q. Cardinal Health?

22 How come you-all didn't hire  
23 him?

24 A. I can't speak to that. I don't  
25 know. I'm confident in the people we have on

1 the team.

Response	Percentage
Yes, the U.S. should take action to reduce greenhouse gas emissions	95%
No, the U.S. should not take action to reduce greenhouse gas emissions	5%

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Age Group	Percentage
18-24	10%
25-34	15%
35-44	20%
45-54	25%
55-64	20%
65-74	15%
75-84	10%
85+	5%

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[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12           Q.       Perfect.

13                    Have you seen the customer

14 files for Cuyahoga County and Summit County?

15           A.       I have not.

16           Q.       Me either.

17                    Do they exist?

18           A.       I can't speak to that. I don't

19 know.

20           Q.       Okay. One of the 30(b)(6)

21 topics that I asked was to talk about these

22 due diligence files.

23                    You're telling me you haven't

24 seen any of the due diligence files for any

25 pharmacy in Summit County and Cuyahoga

1 County?

2 MS. HENN: Objection to form.

3 Outside the scope.

4 QUESTIONS BY MR. FARRELL:

5 Q. It's okay if you haven't, and I  
6 don't want you guessing.

7 A. No, I understand.

8 I've seen files. I don't know  
9 about files during this time frame with a  
10 Level 1, 2 or 3 review. I can't recall.

11 Q. Let me ask you this: How --  
12 how many pharmacies in May of 2007, in  
13 Cuyahoga and Summit County, do you reckon  
14 ordered more than 8,000 pills of hydrocodone  
15 or oxycodone?

16 MS. HENN: Objection to form.

17 Outside the scope.

18 THE WITNESS: I don't know.

19 I'd be guessing.

20 QUESTIONS BY MR. FARRELL:

21 Q. Let's say there's ten. Should  
22 there be ten customer files that document why  
23 McKesson was exceeding 8,000 pills a month?

24 MS. HENN: Objection to form.

25 THE WITNESS: There should be

1 documentation.

2 QUESTIONS BY MR. FARRELL:

3 Q. And if there was no due  
4 diligence performed but those pills were  
5 still shipped, is that lawful or unlawful?

6 MS. HENN: Objection to form.

7 QUESTIONS BY MR. FARRELL:

8 Q. Do you want me to repeat the  
9 question?

10 A. Sure.

11 Q. If, if, if, three ifs, no due  
12 diligence was performed, yet McKesson still  
13 shipped more than 8,000 oxycodone pills to a  
14 pharmacy in Cuyahoga or Summit County in May  
15 of 2007, is that lawful or unlawful according  
16 to the federal regulations?

17 MS. HENN: Objection to form.

18 QUESTIONS BY MR. FARRELL:

19 Q. Why are you struggling with  
20 this?

21 A. I'm just thinking. I mean,  
22 it's -- if it's -- it wouldn't be lawful.

23 Q. That makes it...

24 A. If there weren't documentation.  
25 Or due diligence, excuse me.

1           Q.       Then it would be lawful or  
2 unlawful?

3                   MS. HENN:  Objection to form.

4                   THE WITNESS:  It would be  
5 unlawful.

6 QUESTIONS BY MR. FARRELL:

7           Q.       So it's summarizing altogether.  
8 If in May of 2007 McKesson is shipping to a  
9 pharmacy in Cuyahoga or Summit County,  
10 Cleveland, Ohio, or Akron, Ohio, more than  
11 8,000 pills of hydrocodone or more than 8,000  
12 pills of oxycodone, without conducting a due  
13 diligence review, then McKesson is engaging  
14 in unlawful conduct according to federal law,  
15 agreed?

16                   MS. HENN:  Objection to form.

17                   THE WITNESS:  Can you ask it  
18 again?  I apologize.  Let's pause  
19 here.  I'm not a lawyer.

20 QUESTIONS BY MR. FARRELL:

21           Q.       I know you're not.  And again,  
22 I'm going to reiterate --

23           A.       There's discretion in how this  
24 due diligence is done and documented, so I'm  
25 trying to understand.

1 Q. That's right. So -- you're  
2 right. So let me see if I can say it again.

3 If in May of 2007 McKesson  
4 Corporation is shipping to a pharmacy in  
5 Cuyahoga or Summit County, Cleveland, Ohio,  
6 or Akron, Ohio, more than 8,000 pills of  
7 oxycodone or more than 8,000 pills of  
8 hydrocodone without conducting due diligence,  
9 then McKesson Corporation is engaging in  
10 unlawful conduct according to federal law?

11 MS. HENN: Object to form.

12 THE WITNESS: I don't know how  
13 to answer that exactly. It depends.

14 QUESTIONS BY MR. FARRELL:

15 Q. Depends on what?

16 If you ship more than 8,000  
17 pills without conducting due diligence,  
18 McKesson is engaging in unlawful conduct  
19 according to federal law?

20 MS. HENN: Objection to form.

21 Go ahead.

22 THE WITNESS: It can be  
23 interpreted that way. I mean, it --

24 QUESTIONS BY MR. FARRELL:

25 Q. Well, the DEA certainly

1 interprets it that way, agreed?

2 A. They have.

3 Q. And McKesson has paid fines  
4 based on that DEA interpretation, agreed?

5 MS. HENN: Objection to form.

6 THE WITNESS: We've paid fines.

7 Again, we're --

8 QUESTIONS BY MR. FARRELL:

9 Q. Based on the allegations by the  
10 DEA that you shipped suspicious orders  
11 without conducting due diligence?

12 MS. HENN: Objection to form.

13 Go ahead.

14 THE WITNESS: Based on those  
15 allegations.

16 QUESTIONS BY MR. FARRELL:

17 Q. Yes.

18 A. Right.

19 Q. The answer is yes?

20 A. Yes.

21 Q. See, a yes just gets me moving  
22 faster. Oh, this one's gonna be fun.

23 MR. FARRELL: Why don't we take  
24 a quick break.

25 MS. HENN: Okay.

1 VIDEOGRAPHER: The time is  
2 2:08 p.m., and we're going off the  
3 record.

4 (Off the record at 2:08 p.m.)

5 VIDEOGRAPHER: The time is  
6 2:20 p.m., and we're back on the  
7 record.

8 (McKesson-Hartle Exhibit 18  
9 marked for identification.)

10 QUESTIONS BY MR. FARRELL:

11 Q. The next exhibit we're going to  
12 have marked is Exhibit 18.

13 For reference, the top  
14 right-hand corner is 2007\_04\_XX. The reason  
15 it's XX is the metadata has not yet told me  
16 what day of the month it is.

17 Do you know what day of the  
18 month this conference was back in 2007?

19 A. I can't think off the top of my  
20 head, no. Yeah.

21 Q. The Bates stamp, we have a MDL  
22 Bates stamp of MCKMDL00403340.

23 Do you recognize this document?

24 A. I do.

25 Q. What is it?

1           A.       This is a presentation given by  
2   Don Walker about -- at a company meeting  
3   about the Lifestyle Drug Program.

4           Q.       And Don Walker at the time  
5   was -- would be working for McKesson?

6           A.       Yes.

7           Q.       So this is a McKesson document?

8           A.       Excuse me, yes.

9           Q.       It's produced in the MDL by the  
10   McKesson lawyers?

11          A.       Yes.

12          Q.       From the McKesson files?

13          A.       Yes.

14          Q.       And is a true and accurate copy  
15   of the presentation given at the national  
16   operations conference in 2007?

17                   MS. HENN:  Objection to form.

18                   THE WITNESS:  Yes, I believe  
19                   so.  I wasn't there, but I believe so,  
20                   yeah.

21   QUESTIONS BY MR. FARRELL:

22          Q.       So this national operations  
23   conference 2007, this is a conference that is  
24   just for McKesson employees.  Is that your  
25   understanding?

1 A. Yeah, they typically are.

2 Q. It's from -- Mr. Boggs  
3 testified about it previously. So this was  
4 in 2007. Management basically gets together,  
5 and Don Walker is the senior vice president  
6 of distribution operations, is giving a  
7 presentation on a number of topics in the  
8 form of a PowerPoint slide?

9 A. Correct.

10 MS. HENN: Objection to form.

11 QUESTIONS BY MR. FARRELL:

12 Q. Yes?

13 A. Correct.

14 Q. So the title of this is  
15 "Lifestyle Drugs and Internet Pharmacies."

16 "Lifestyle drugs" is an  
17 interesting choice of words.

18 Do you know where it came from?

19 A. It's my understanding that's  
20 the language that was -- the DEA used as well  
21 and had referenced.

22 Q. Some of the files that I've  
23 seen has the DEA asking McKesson where you  
24 came up with the oxycodone, hydrocodone and  
25 opium pills as lifestyle drugs.

1 MS. HENN: Objection to form.

2 THE WITNESS: All I can tell

3 you is I -- what I've heard is that

4 it's the term that came from DEA.

5 QUESTIONS BY MR. FARRELL:

6 Q. On page 2, it identifies

7 several different topics: public health

8 issue, DEA focus, McKesson involvement,

9 current status, and Lifestyle Drug Monitoring

10 Program. So these will be our jeopardy

11 questions today.

12 Public health issues. Can you

13 read what the very -- on page 3, can you read

14 what the first item is?

15 A. "Abuse of prescription drugs

16 has risen 66 percent since 2000."

17 Q. So this is McKesson telling

18 McKesson employees that we're in the business

19 of selling opium pills, and abuse has risen

20 66 percent since 2000.

21 Does that not give you,

22 Mr. McKesson Corporation, pause to think

23 about whether or not your role in the chain

24 of distribution is contributing to the abuse?

25 MS. HENN: Objection to form.

1 THE WITNESS: Can you ask that  
2 again, please?

3 QUESTIONS BY MR. FARRELL:

4 Q. This is McKesson telling  
5 McKesson employees that abuse of prescription  
6 drugs has risen 66 percent since the year  
7 2000.

8 Does that not give you,  
9 Mr. McKesson Corporation, pause to think  
10 about whether or not your role in the chain  
11 of distribution is contributing to such  
12 abuse?

13 MS. HENN: Objection to form.

14 THE WITNESS: I think it's --  
15 it should give everybody pause that  
16 that was the trend that was going on,  
17 and it's a piece of information shared  
18 with leaders to inform them. So --

19 QUESTIONS BY MR. FARRELL:

20 Q. But not everybody is selling  
21 opium pills; McKesson is.

22 MS. HENN: Counsel, can we just  
23 make sure we let the witness finish  
24 his answers?

25 MR. FARRELL: Sure. I was

1           trying to make a snarky remark.

2                       MS. HENN: Thank you.

3       QUESTIONS BY MR. FARRELL:

4           Q.       Not everyone is engaged in the  
5       chain of distribution of opium pills, though?

6                       MS. HENN: Objection to form.

7                       THE WITNESS: Agree.

8       QUESTIONS BY MR. FARRELL:

9           Q.       So I'm asking you, McKesson  
10       Corporation, whether or not you have any  
11       regrets about selling so many opium pills.

12                      MS. HENN: Objection to form.

13                      Outside the scope.

14                      THE WITNESS: Back to your  
15       question about this, I would -- sure  
16       that gives you pause, I mean, to  
17       understand that there's an epidemic  
18       out there. And clearly there's many  
19       players involved in the flow of  
20       distribution.

21       QUESTIONS BY MR. FARRELL:

22           Q.       As of 2007, McKesson is  
23       recognizing that opioid painkillers kill more  
24       than cocaine and heroin combined, agreed?

25                      MS. HENN: Objection to form.

1 THE WITNESS: Agree.

2 QUESTIONS BY MR. FARRELL:

3 Q. And these are McKesson's words.

4 Where is McKesson getting this  
5 data from?

6 MS. HENN: Objection to form.

7 Outside the scope.

8 THE WITNESS: I don't know  
9 specifically where they -- their  
10 source of data for that particular  
11 line, but information from different  
12 sources. Could be DEA, could be CDC,  
13 it could be wherever.

14 QUESTIONS BY MR. FARRELL:

15 Q. It says here, "Rogue Internet  
16 pharmacies distributing oxycodone,  
17 hydrocodone, phentermine and alprazolam," yet  
18 McKesson was selling to rogue Internet  
19 pharmacies, true?

20 MS. HENN: Objection to form.

21 Outside the scope.

22 THE WITNESS: Can you ask that  
23 again, please?

24 QUESTIONS BY MR. FARRELL:

25 Q. McKesson is noting that rogue

1 Internet pharmacies are selling oxycodone and  
2 hydrocodone, yet what's missing from this  
3 slide is the fact that McKesson was supplying  
4 the pills to the rogue Internet pharmacies.

5 MS. HENN: Objection to form.

6 THE WITNESS: And what's your  
7 specific question again?

8 QUESTIONS BY MR. FARRELL:

9 Q. What gives?

10 MS. HENN: Objection to form.

11 THE WITNESS: I don't know what  
12 type of response a "what gives"  
13 question is.

14 QUESTIONS BY MR. FARRELL:

15 Q. Yeah. You're noting that  
16 people are dying, and part of the reason is  
17 that rogue Internet pharmacies are out there.  
18 Yet McKesson, during this time frame, is  
19 selling to some of those very same Internet  
20 pharmacies, and that's what the DEA fined you  
21 for.

22 So is this ignorance of who  
23 you're selling to? Is this repackaging,  
24 reframing the issue? Or is it just flat out  
25 a misrepresentation?

1 MS. HENN: Objection to form.

2 Outside the scope.

3 THE WITNESS: This is raising  
4 awareness in -- about the issues that  
5 are the public health issues,  
6 communicating with leaders and sharing  
7 the -- where McKesson is enhancing the  
8 program.

9 QUESTIONS BY MR. FARRELL:

10 Q. But you understand that the  
11 rogue Internet pharmacies were getting their  
12 pills from, among other people, McKesson,  
13 agreed?

14 A. I understand.

15 MS. HENN: Objection to form.

16 QUESTIONS BY MR. FARRELL:

17 Q. Agreed?

18 A. I understand. Agreed.

19 Q. I'm asking if you understand.

20 I want you to confirm that the rogue Internet  
21 pharmacies were in fact getting some of their  
22 pills from McKesson.

23 MS. HENN: Objection to form.

24 THE WITNESS: I don't have  
25 specific details on that, but --

1 QUESTIONS BY MR. FARRELL:

2 Q. You understand that to be true?

3 A. -- I understand that to be  
4 true.

5 Q. So McKesson Corporation admits  
6 it was selling oxycodone and hydrocodone to  
7 rogue Internet pharmacies in and around 2007?

8 MS. HENN: Objection to form.  
9 Outside the scope.

10 THE WITNESS: Again, I don't  
11 know the specific examples and --

12 QUESTIONS BY MR. FARRELL:

13 Q. I'm not asking for specific  
14 examples.

15 A. Right.

16 Q. I'm asking you to confirm that  
17 in 2007, McKesson Corporation was selling  
18 oxycodone and hydrocodone to rogue Internet  
19 pharmacies.

20 MS. HENN: Objection to form.

21 And, Counsel, I'll just ask you  
22 to let him finish his answers so that  
23 he can get his answers out.

24 MR. FARRELL: Yes, ma'am.

25 THE WITNESS: Again, I don't

1           have the specific examples. I believe  
2           that to be true, but I don't know the  
3           specific details.

4   QUESTIONS BY MR. FARRELL:

5           Q.       The next page, page 4,  
6    "Internet pharmacies." It says,  
7    "Investigative work hours have doubled."

8                   Do you know what it doubled  
9    from or to?

10          A.       I do not.

11          Q.       "Cutting supply critical to  
12    success."

13                   What does that mean?

14          A.       I don't know. I don't know  
15    what the speaking points or -- it's one  
16    bullet. I'm not sure how it was represented  
17    or communicated.

18          Q.       Do you know what price  
19    diversion is?

20          A.       Not specifically.

21          Q.       Was McKesson at this time  
22    considering that some of the Internet  
23    pharmacies were competing with McKesson for  
24    business?

25                   MS. HENN: Objection to form.

1 THE WITNESS: I do not know.

2 Pricing is not my area.

3 QUESTIONS BY MR. FARRELL:

4 Q. Okay. It says, "Wholesalers.

5 DEA expects that you know your customers."

6 What does that mean? It's in  
7 quotations.

8 A. Right.

9 MS. HENN: Objection to form.

10 MR. FARRELL: Well, it is in  
11 quotations, isn't it?

12 MS. HENN: I was objecting to  
13 asking what DEA means when they said  
14 "know your customers." That was what  
15 was my objection.

16 QUESTIONS BY MR. FARRELL:

17 Q. So McKesson is writing a slide  
18 following a meeting with the DEA, reporting  
19 to the DEA employees what the DEA's focus  
20 was, and what McKesson is reporting is that  
21 the DEA expects you to know your customers.

22 Is that fair?

23 A. That's fair.

24 Q. And when we do, quote, "know  
25 our customers," end quote, that's a tag line

1 for distributors with regard to knowing the  
2 customers you're selling opium pills to?

3 MS. HENN: Objection to form.

4 THE WITNESS: That is a DEA tag  
5 line.

6 QUESTIONS BY MR. FARRELL:

7 Q. And then the next sentence, can  
8 you read it out loud, please?

9 A. The next bullet?

10 Q. Yes.

11 A. "Wholesalers accountable for  
12 controlling quantities shipped."

13 Q. Is that true or not true?

14 MS. HENN: Objection to form.

15 THE WITNESS: Can you add a  
16 little more context to your question?

17 I know it's a true/false question,  
18 but --

19 QUESTIONS BY MR. FARRELL:

20 Q. Yes.

21 The DEA expects the wholesalers  
22 to be accountable for controlling quantities  
23 that they ship.

24 Is that fair or unfair?

25 MS. HENN: Objection to form.

1 Go ahead.

2 THE WITNESS: That's what

3           the -- that's what the DEA expects, I  
4           guess, yeah.

5 QUESTIONS BY MR. FARRELL:

6 Q. Does McKesson acknowledge that  
7 it is accountable for controlling the  
8 quantities of opium pills shipped to American  
9 pharmacies?

10           A.       We're accountable as a  
11 distributor.

12 Q. [REDACTED]

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MS. HENN: Objection to form.

Outside the scope.

THE WITNESS: What I would

1 share is I believe that average is a  
2 very rudimentary average, all  
3 pharmacies divided by pills, and so it  
4 doesn't account for different pharmacy  
5 size. So it's the number that is the  
6 result of that basic calculation.

7 QUESTIONS BY MR. FARRELL:



[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 QUESTIONS BY MR. FARRELL:

13 Q. As of April of 2007, which we  
14 believe to be the date of this conference,  
15 have you seen any documentation anywhere in  
16 the records of McKesson Corporation that  
17 indicate that any message from the DEA to  
18 date had been unclear?

19 MS. HENN: Objection to form.  
20 Outside the scope.

21 THE WITNESS: Have I seen  
22 formal documentation where somebody  
23 said DEA was unclear?

24 QUESTIONS BY MR. FARRELL:

25 Q. That was my question, yes.

1           A.       I have not seen any of that  
2   documentation.

- **1. Introduction**
- **2. Background**
- **3. Methodology**
- **4. Results**
- **5. Discussion**
- **6. Conclusion**
- **7. References**
- **8. Appendix**
- **9. Glossary**
- **10. Acknowledgments**
- **11. Funding**
- **12. Conflicts of Interest**
- **13. Data Availability**
- **14. Ethics Approval**
- **15. Author Contributions**
- **16. Informed Consent**
- **17. Institutional Review Board**
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- **19. Data Analysis**
- **20. Statistical Analysis**
- **21. Results of Statistical Analysis**
- **22. Discussion of Results**
- **23. Conclusion of Study**
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- **65. Conclusion of Study**
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[illegible]

Age Group	Don't know	Not a good idea	A good idea	A very good idea	A great idea
18-29	10%	10%	20%	30%	30%
30-39	10%	10%	20%	30%	30%
40-49	10%	10%	20%	30%	30%
50-59	10%	10%	20%	30%	30%
60+	30%	10%	20%	30%	10%

13 (McKesson-Hartle Exhibit 19

14 marked for identification.)

15 QUESTIONS BY MR. FARRELL:

16           Q.       We'll mark as 19, top  
17   right-hand corner is 2007\_5\_15, Bates-stamped  
18   MCKMDL00337303.

19 Is this, in fact, the Lifestyle  
20 Drug Monitoring Program at McKesson?

21                   A.       Yes.

22 Q. Do you recognize this document  
23 as a true and authentic version of the  
24 Lifestyle Drug Monitoring Program?

25                   A.       I do.

1 Q. And is it a document kept in  
2 the regular course of business and produced  
3 by your lawyers in this litigation?

4 MS. HENN: Objection to form.

5 THE WITNESS: Yeah.

6 QUESTIONS BY MR. FARRELL:

■ ■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ ■ [REDACTED]  
■ ■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ ■ [REDACTED]

18 (McKesson-Hartle Exhibit 20  
19 marked for identification.)

20 QUESTIONS BY MR. FARRELL:

21 Q. Exhibit 20, top right-hand  
22 corner, 2007\_06\_12, Bates-stamped  
23 MCKMDL00355527.

24 I'll represent to you again,  
25 this was produced by your counsel in this

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The bars are gray, and the background is white. The chart is enclosed in a black border.

Category	Percentage
1	25%
2	75%
3	85%
4	65%
5	55%
6	60%
7	50%
8	60%
9	75%
10	75%
11	85%
12	65%
13	55%
14	50%
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16	75%
17	55%
18	45%
19	75%
20	55%

Row	Bar Length (approx. %)
1	40
2	95
3	80
4	90
5	100
6	90
7	95
8	40
9	95
10	85
11	15
12	40
13	55
14	20
15	40
16	50
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18	10
19	95
20	100
21	100
22	100
23	95
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26	100
27	10
28	40

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 Q. Right.

12 (McKesson-Hartle Exhibit 21  
13 marked for identification.)

14 QUESTIONS BY MR. FARRELL:

15 Q. Next document is 21. Top  
16 right-hand corner, 2007\_11\_26. This is a  
17 February 2008 PowerPoint presentation  
18 entitled "Controlled Substance Monitoring  
19 Program, CSMP, Implementation Strategy -  
20 Regulatory Review Document."

21 Have you seen this document  
22 before?

23 A. I don't believe I've seen this  
24 document.

25 Q. All right.

1 A. No.

2 Q. It's my understanding that the  
3 CSMP was going to replace the Lifestyles  
4 program?

5 A. Correct.

6 Q. And this document is talking  
7 about in March of 2008 you're going to be  
8 implementing pilot programs and then rolling  
9 it across the country?

10 MS. HENN: Objection to form.

█ [REDACTED]

█ [REDACTED] █ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

16 A. Can I finish reading this?

17 Q. Sure.

18 A. Pretty quickly. Thank you.

19 Okay. Thank you.

20 Q. Yeah.

21 So you agree with what I said?

22 A. You'll need to restate whatever  
23 you said.

█ [REDACTED] █ [REDACTED]

█ [REDACTED]

[illegible]

[illegible]

Category	Percentage
U.S. should take action to address climate change	68%
U.S. should not take action to address climate change	28%
U.S. should take action to address climate change	68%
U.S. should not take action to address climate change	28%

22 (McKesson-Hartle Exhibit 23

23 marked for identification.)

24 QUESTIONS BY MR. FARRELL:

25 Q. Next document, Exhibit 23,

1 2007\_12\_27, Bates stamp MCKMDL00478910. This  
2 is the December 27, 2007 Rannazzisi letter.

3 Do you recognize this document?

4 A. I do.

5 Q. McKesson Corporation  
6 acknowledges receipt of this communication  
7 from the DEA dated December 27, 2007,  
8 correct?

9 MS. HENN: Objection to form.

10 THE WITNESS: Yes, we received  
11 it.

12 QUESTIONS BY MR. FARRELL:

13 Q. This is a true and authentic  
14 version of the McKesson letter?

15 A. I believe so.

16 Q. And you kept it in the routine  
17 business of collecting records,  
18 record-keeping at McKesson?

19 A. I can't speak to where this was  
20 stored and -- I don't know, but --

21 Q. But it came from McKesson; it's  
22 got your Bates stamp on it?

23 A. I may be a little confused on  
24 your question.

25 Q. I just want you to validate --

1           A.       It came us.

2           Q.       You're just acknowledging you  
3   received this letter?

4           A.       Correct.

5           Q.       All right. We can walk through  
6   this entire letter, but I'm going to first  
7   start broadly.

8                   Does McKesson acknowledge that  
9   the facts and guidelines set forth in the  
10   2007 Rannazzisi letter are true and an  
11   accurate representation of the obligations  
12   McKesson has under federal law?

13                   MS. HENN: Objection to form.

14                   THE WITNESS: Can you ask that  
15   question again?

16   QUESTIONS BY MR. FARRELL:

17           Q.       Yeah.

18                   This is the second time the DEA  
19   is writing a dear registrant letter to  
20   everybody in the country.

21           A.       Understood.

22           Q.       Basically what it's saying is,  
23   you people still aren't getting it; here's  
24   what your obligations are under federal law.

25                   And it includes the duty to

1 halt suspicious orders, perform due diligence  
2 and report when necessary to the DEA, agreed?

3 MS. HENN: Objection to form.

4 QUESTIONS BY MR. FARRELL:

5 Q. Could it be any clearer?

6 MS. HENN: Objection to form.

7 THE WITNESS: It's the same  
8 information they've shared before,  
9 with some additions.

10 QUESTIONS BY MR. FARRELL:

11 Q. And it's clear, you have a duty  
12 to halt suspicious orders, perform due  
13 diligence and report when necessary.

14 This is an affirmation a decade  
15 preceding the shipping requirement and the  
16 reporting requirement in the Masters  
17 Pharmaceutical case, agreed?

18 MS. HENN: Objection to form.

19 THE WITNESS: You rolled a  
20 couple things in there together. Can  
21 you ask me -- what's the specific  
22 question?

23 QUESTIONS BY MR. FARRELL:

24 Q. This is a 2007 letter, which  
25 predates the Masters Pharmaceutical case by a

1 decade. And I'm asking you whether or not  
2 you agree that this letter sets forth the  
3 shipping requirements and the reporting  
4 requirements as outlined in Masters  
5 Pharmaceutical.

6 MS. HENN: Objection to form.

7 THE WITNESS: I'm going to read  
8 this again just so --

9 QUESTIONS BY MR. FARRELL:

10 Q. Sure.

11 The second to the last  
12 paragraph is probably the most helpful.

13 A. What's that?

14 Q. The second to last paragraph  
15 may be the most helpful.

16 A. On the very last -- okay.

17 Before I get there --

18 Q. It states, "Lastly, registrants  
19 that routinely report suspicious orders, yet  
20 fill these orders without first determining  
21 that order is not being diverted, may be  
22 failing to maintain effective controls  
23 against diversion."

24 It's what you and I have been  
25 talking about for the last two hours,

1 correct?

2 A. Correct.

3 Q. This is an accurate statement  
4 of federal law from the DEA to McKesson,  
5 agreed?

6 MS. HENN: Objection to form.

7 THE WITNESS: Agreed.

8 QUESTIONS BY MR. FARRELL:

9 Q. This is the same thing the DC  
10 Circuit Court of Appeals said in 2017,  
11 agreed?

12 MS. HENN: Objection to form.

13 THE WITNESS: Agreed.

14 QUESTIONS BY MR. FARRELL:

15 Q. I don't need to put this in  
16 there. But backing up to the last exhibit we  
17 had from February of 2008, can you pull that  
18 up?

19 MS. HENN: You talking about  
20 Exhibit 21?

21 MR. FARRELL: Yes.

22 QUESTIONS BY MR. FARRELL:

23 Q. I'm going to represent to you  
24 that the way that we pull these documents up  
25 on the electronic system is you can pull it

1 up in a -- basically a photocopy version like  
2 you're seeing here, but there's also a native  
3 format, which is actually the PowerPoint.

4 A. Okay.

5 Q. And so what I'm showing you on  
6 the screen is the same exact document, and  
7 the only reason I produced it in native  
8 format is that at the very bottom of each of  
9 the pages, except for the first one, there's  
10 a date.

11 MR. FARRELL: So if you flip to  
12 the next page on the screen up there,  
13 Corey.

14 MS. HENN: Do you want to just  
15 hand the copy over --

16 MR. FARRELL: Yeah.

17 MS. HENN: -- if that's easier?

18 MR. FARRELL: I just want you  
19 to affirm the date on it.

20 MS. HENN: And do you have like  
21 an identifier? I know for these kinds  
22 of native documents --

23 MR. FARRELL: Not that I can  
24 figure out. I'm not that good.

25 MS. HENN: All right.

1 THE WITNESS: So what do you  
2 need me to do? What are you asking?

3 QUESTIONS BY MR. FARRELL:

4 Q. What the date is.

5 A. On the front page?

6 Q. On the color version, on page 2  
7 maybe.

8 A. Oh, on the bottom? 11/26 of  
9 '07. November 26, 2007.

10 (McKesson-Hartle Exhibit 24  
11 marked for identification.)

12 QUESTIONS BY MR. FARRELL:

13 Q. Okay. The next exhibit is  
14 going to be Exhibit 24. It's 2008\_03\_10.  
15 It's another PowerPoint presentation at the  
16 Denver sales meeting, March 10, 2008.

17 Have you seen this document  
18 before?

19 A. I do not believe I've seen this  
20 one.

21 Q. It has a bunch of redacted  
22 stuff in here.

23 MR. FARRELL: Counsel, do you  
24 know if that was recorded in the  
25 privilege log?

1 MS. HENN: I don't know off the  
2 top of my head, but we can certainly  
3 check.

4 MR. FARRELL: I think that's  
5 the main reason. It basically is  
6 talking about your CSMP, the  
7 three-level review, and the rollout  
8 with a bunch of stuff redacted. I  
9 just wanted to put it in the record so  
10 we can fool with it later.

11 MS. HENN: Is this a good --  
12 the witness would like a break.

13 MR. FARRELL: Sure.

14 MS. HENN: Could we just maybe  
15 pause for just five minutes?

16 MR. FARRELL: Yep.

17 VIDEOGRAPHER: The time is  
18 3:08 p.m. We're going off the record.

19 (Off the record at 3:08 p.m.)

20 VIDEOGRAPHER: The time is  
21 3:16 p.m. We're back on the record.

22 (McKesson-Hartle Exhibit 25  
23 marked for identification.)

24 QUESTIONS BY MR. FARRELL:

25 Q. We'll mark Exhibit 25. It's a

1 2008\_05\_02, Bates stamp MCKMDL00355561.

2 Do you recognize this document?

3 A. I do.

4 Q. What is it?

5 A. It's the settlement agreement  
6 from 2008.

7 Q. Between?

8 A. Between McKesson and the DEA,  
9 DOJ.

10 Q. Settling what?

11 A. Settling allegations of things  
12 related to our responsibilities as a  
13 distributor.

14 Q. Right.

15 So you'll forgive me for  
16 spending so much time for the last several  
17 hours building up to the duties and  
18 responsibilities under the federal  
19 regulations, leading up to May 2, 2008, where  
20 you signed a memorandum -- administrative  
21 memorandum of agreement paying a \$13 million  
22 fine for allegedly violating all of those  
23 rules we've been discussing.

24 MS. HENN: Objection to form.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. And I'll acknowledge on page 2  
3 the middle whereas clause that McKesson  
4 denied doing anything wrong.

5 Sitting here today, McKesson  
6 continue to assert that it did nothing wrong  
7 despite the fact that it paid a fine in 2008?

8 MS. HENN: Objection to form.

9 THE WITNESS: We do. I believe  
10 we were in good faith working with DEA  
11 and denied the allegations.

12 QUESTIONS BY MR. FARRELL:

13 Q. So you deny you did anything  
14 wrong. You deny you broke the law?

15 MS. HENN: Objection to form.

16 THE WITNESS: I stand behind  
17 what's in this document.

18 QUESTIONS BY MR. FARRELL:

19 Q. Now, you weren't at McKesson,  
20 but you're sitting here as McKesson, so  
21 you're taking the position that's in the  
22 document: We didn't do anything wrong.

23 But you acknowledge that at  
24 least in 2008 the DEA -- it's beyond doubt  
25 now what the DEA could possibly mean when

1     they want you to fulfill your obligations  
2     under federal law, agreed?

3                     MS. HENN:  Objection to form.

4                     THE WITNESS:  It is beyond  
5             doubt -- can you say that again?  
6             Rephrase it?

7     QUESTIONS BY MR. FARRELL:

8             Q.       I can rephrase it, yes.

9             A.       Yeah.

10            Q.       I'm trying to establish whether  
11     or not McKesson Corporation believes as of  
12     May 2, 2008, the DEA could be any clearer  
13     about its expectations of McKesson  
14     Corporation under the federal regulations  
15     related to the distribution of opium pills.

16                    MS. HENN:  Objection to form.  
17             Outside the scope.

18     QUESTIONS BY MR. FARRELL:

19            Q.       I can walk through all of the  
20     various communications leading up to this,  
21     but you'll agree with me there was a 2006  
22     letter, a 2007 letter, there were  
23     presentations, there were meetings, there was  
24     a rule to show cause, there's a settlement  
25     agreement, you got fined \$13 million.

1 Nobody, no reasonable person,  
2 could say that the DEA failed to tell  
3 McKesson what the rules of the road were.

4 MS. HENN: Objection to form.  
5 Outside the scope.

6 THE WITNESS: I agree that they  
7 mentioned that in many -- in many ways  
8 and many times. There's still -- you  
9 know, there are areas of the  
10 regulation that are still unclear, and  
11 DEA does not provide clear guidance on  
12 what is an order of unusual size,  
13 frequency and pattern. They put that  
14 back on the distributors to design our  
15 own.

16 So they're not -- they're clear  
17 on that guidance, but not on how to do  
18 it all the time.

19 QUESTIONS BY MR. FARRELL:

20 Q. All right. So it's clear in  
21 2008 what they're telling the DEA -- telling  
22 McKesson is that whatever you're doing, we  
23 think it's not enough?

24 MS. HENN: Objection to form.

25 THE WITNESS: It's clear that

1           that's what they were alleging.

2       QUESTIONS BY MR. FARRELL:

3           Q.       And one of the things that's  
4       clear is that you have a duty to halt  
5       suspicious orders and perform due diligence.

6                   Is there any reasonable person  
7       in the United States of America as of 2008  
8       could possibly argue that it's unclear  
9       whether or not you should halt a suspicious  
10      order before shipping?

11                   MS. HENN:  Objection to form.

12                   THE WITNESS:  I can't speak for  
13      all reasonable people in the US.

14      QUESTIONS BY MR. FARRELL:

15           Q.       Well, what if somebody came up  
16      and said, "We don't know whether or not we  
17      have a duty to halt before shipping a  
18      suspicious order," what you say to them as of  
19      May 2, 2008, on the heels of paying  
20      \$13 million to the DEA?

21                   MS. HENN:  Objection to form.

22                   Outside the scope.

23                   THE WITNESS:  Can you ask that  
24      again?

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Yes.

3 Would you be a moron if you  
4 took the position out of May 2, 2008, that  
5 the DEA was unclear as to whether or not you  
6 could ship a suspicious order?

7 MS. HENN: Objection to form.

8 Outside the scope.

9 THE WITNESS: I wouldn't call  
10 anybody a moron, but it's clear what  
11 they expect.

12 QUESTIONS BY MR. FARRELL:

13 Q. And they expect what?

14 A. To design and operate a system  
15 to disclose suspicious orders.

16 Q. And?

17 MS. HENN: Objection to form.

18 THE WITNESS: And report.

19 QUESTIONS BY MR. FARRELL:

20 Q. And?

21 MS. HENN: Same objection.

22 QUESTIONS BY MR. FARRELL:

23 Q. Is it clear whether or not you  
24 can ship a suspicious order without  
25 conducting due diligence?

1 MS. HENN: Objection to form.

2 Outside the scope.

3 THE WITNESS: I think it

4 depends. It's -- there are other

5 types of suspicious order systems.

6 QUESTIONS BY MR. FARRELL:

7 Q. I understand. I'm just trying

8 to take it from a very basic standpoint.

9 Could the DEA have made it any

10 clearer that McKesson has a duty to monitor

11 and detect suspicious orders?

12 MS. HENN: Objection to form.

13 Outside the scope.

14 THE WITNESS: To monitor and

15 detect suspicious orders.

16 QUESTIONS BY MR. FARRELL:

17 Q. That's what it says.

18 A. Very clear.

19 Q. Could they have been any

20 clearer that if you get a suspicious order,

21 you can't just ship it?

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: That's clear.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. Clear or very clear?

3 MS. HENN: Objection to form.

4 THE WITNESS: It's very clear.

5 QUESTIONS BY MR. FARRELL:

6 Q. Can you report the suspicious  
7 order to the DEA and still ship it?

8 MS. HENN: Objection to form.  
9 Outside the scope.

10 THE WITNESS: Can you ask that  
11 one again or restate it?

12 QUESTIONS BY MR. FARRELL:

13 Q. Can you report the suspicious  
14 order to the DEA and still ship it?

15 MS. HENN: Same objections.

16 THE WITNESS: Without due  
17 diligence or some sort of review?

18 QUESTIONS BY MR. FARRELL:

19 Q. If you're reporting a  
20 suspicious order to the DEA, what are you  
21 doing?

22 MS. HENN: Objection to form.

23 THE WITNESS: Okay. Can we  
24 start with the original question? I'm  
25 getting a little -- I want to make

1           sure I'm going to answer your question  
2           right --

3       QUESTIONS BY MR. FARRELL:

4           Q.       Yeah, I'm going to show you --

5           A.       -- the right question.

6           Q.       I'm going to show you here in a  
7       few minutes some of your brethren who still  
8       haven't gotten the message by May 2008, and  
9       I'm trying to see if you'll call them morons.

10                   So what I'm asking you is from  
11       McKesson's corporation, is it clear by May 2,  
12       2008, you -- the shipping requirement and the  
13       reporting requirement?

14                   MS. HENN:   Objection to form.  
15           Outside the scope.

16                   THE WITNESS:   That's how we  
17       designed our program, and that's what  
18       we believed it to be.

19       QUESTIONS BY MR. FARRELL:

20           Q.       Based on federal law?

21                   MS. HENN:   Objection to form.

22                   THE WITNESS:   Based on the  
23       regulations and the guidance and the  
24       information we collected.

25                   (McKesson-Hartle Exhibit 26

1 marked for identification.)

2 QUESTIONS BY MR. FARRELL:

3 Q. I'll mark Exhibit 26. Top  
4 right is 2008\_07\_031. It's Bates stamp  
5 MCK-HOI-002-0000042.

6 Have you seen this document  
7 before?

8 A. Yes, I have.

9 Q. And what is it?

10 A. This is a PowerPoint.

11 Q. Made by who?

12 A. By McKesson.

13 Q. For purposes of?

14 A. Discussion with DEA.

15 Q. Regarding?

16 A. Our controlled substance  
17 monitoring program.

18 Q. And it's dated when?

19 A. It's dated July 31, 2008.

20 Q. So this is before or after your  
21 settlement agreement with the DEA?

22 A. Shortly after.

23 Q. So that must have been kind of  
24 awkward, right, your coming in after paying  
25 the fine?

1                   What are you doing here? Are  
2    you giving the DEA an update of all of the  
3    parts of your action plan you're  
4    implementing?

5 MS. HENN: Objection to form.

6 THE WITNESS: I can't say if it  
7 was awkward or not, but standard -- or  
8 a communication and updating them on  
9 what we were doing.

10 QUESTIONS BY MR. FARRELL:

A 15x15 grid of gray squares of varying sizes and positions, creating a sparse, abstract pattern. The squares are distributed across the grid, with some appearing as small individual units and others as larger, more complex shapes. The overall effect is a minimalist, geometric composition.

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12           Q.       The more pills that get  
13 diverted, what happens?

14                   MS. HENN:  Objection to form.

15                   THE WITNESS:  You can assume  
16 that there's more abuse.

17       QUESTIONS BY MR. FARRELL:

18           Q.       Do you believe there's a direct  
19 correlation between the more pills that get  
20 sold and the more pills that get diverted?

21                   MS. HENN:  Objection to form.

22                   THE WITNESS:  Can you rephrase  
23 that question?

24       QUESTIONS BY MR. FARRELL:

25           Q.       Yes.

1                   Is there a relationship between  
2   the number of pills that get sold and the  
3   number of pills that get diverted?

4                   MS. HENN: Objection to form.

5                   THE WITNESS: It's hard to say,  
6           but you could assume that the -- you  
7           know --

8   QUESTIONS BY MR. FARRELL:

9           Q.       I don't want you to assume.

10          A.       Yeah.

11          Q.       I want you to use common sense.

12          A.       Yeah. Using common sense and  
13   basic logic, you could assume the more pills  
14   that are out there, the more potential for  
15   diversion there could be.

16          Q.       So if I were to tell you that a  
17   company sold 100 pills and 10 of them got  
18   diverted, and then I come back to you and say  
19   a year later, a thousand pills got sold, what  
20   does common sense and logic tell you as  
21   McKesson Corporation how many pills get  
22   diverted?

23                  MS. HENN: Objection to form.

24                  THE WITNESS: I don't think  
25           it's that easy of a connection to say

1           that happened. There could be many  
2           different reasons why a thousand  
3           pills -- there may be an increase of a  
4           thousand pills with zero diversion.

5       QUESTIONS BY MR. FARRELL:

6           Q.       That's true.

7                    Do you expect as McKesson  
8       Corporation to find in general a direct  
9       correlation to volume of pills sold and  
10      volume of pills diverted?

11                   MS. HENN: Objection to form.  
12           Outside the scope.

13                   THE WITNESS: Depends. I don't  
14      know if there's a statistic on how  
15      many pills are diverted. Again,  
16      there's reasons why you may have very  
17      large volumes of pills for legitimate  
18      reasons and there may be zero  
19      diversion.

20      QUESTIONS BY MR. FARRELL:

21           Q.       That's true. Let me ask it a  
22      different way.

23                    Do you believe it's foreseeable  
24      that the more pills you sell, the more pills  
25      get diverted?

1 MS. HENN: Objection to form.

2 THE WITNESS: I would say that  
3 there -- that, you know, the volume  
4 of -- the more pills you have, there  
5 could be, could be more to diversion.  
6 It doesn't mean that there is. Or I  
7 would foresee that just an increase in  
8 volume is going to increase diversion.  
9 There could be.

10 QUESTIONS BY MR. FARRELL:

11 Q. The more pills that are  
12 diverted -- let me ask you a different way.

13 A. Okay.

14 Q. Does McKesson believe that the  
15 more pills that get diverted, the more pills  
16 get abused?

17 MS. HENN: Objection to form.  
18 Outside the scope.

19 THE WITNESS: Sorry, could you  
20 rephrase that one again? Let me --

21 QUESTIONS BY MR. FARRELL:

22 Q. As McKesson Corporation, do you  
23 acknowledge that the more pills that get  
24 diverted, the more pills get abused?

25 MS. HENN: Same objections.

1 THE WITNESS: Again, I'd say  
2 what I said previously: It could --  
3 that could be a possibility. It  
4 depends, but...

5 QUESTIONS BY MR. FARRELL:

6 Q. Are people diverting pills to  
7 engage in lawful conduct?

8 MS. HENN: Objection to form.

9 THE WITNESS: I don't know why  
10 everybody is diverting pills every  
11 single time, but generally, no.

12 QUESTIONS BY MR. FARRELL:

13 Q. Right.

14 So in general, the more pills  
15 that gets diverted, the more abuse and  
16 addiction we find with prescription opium  
17 pills?

18 A. There's that possibility.

19 (McKesson-Hartle Exhibit 27  
20 marked for identification.)

21 QUESTIONS BY MR. FARRELL:

22 Q. I'm going to have marked what  
23 is Deposition Exhibit 27. The top right-hand  
24 corner is 2012\_5\_9.

25 This is an amicus brief.

1 Do you know what an amicus  
2 brief is?

3 A. I do not. I do not have legal  
4 background.

5 Q. Okay. McKesson Corporation is  
6 a member of the Healthcare Distributors and  
7 Manufacturers Association, now known as the  
8 Healthcare Distributors Association, agreed?

9 A. Healthcare Distributors  
10 Management Association?

11 Q. Management, I'm sorry, yes.

12 A. Yes.

13 Q. Okay. And on May 9, 2012,  
14 Cardinal Health had gotten itself into a  
15 little trouble with the DEA, hadn't it?

16 MS. HENN: Objection to form.

17 THE WITNESS: I'm aware of that  
18 time frame and...

19 QUESTIONS BY MR. FARRELL:

20 Q. They got in trouble with the  
21 DEA, very similar to how McKesson got in  
22 trouble with the DEA in 2008, agreed?

23 MS. HENN: Objection to form.

24 THE WITNESS: I haven't  
25 reviewed this document or all the

1 details, but in spirit, in general.

2 QUESTIONS BY MR. FARRELL:

3 Q. So in -- on May 9th of 2012,  
4 HDMA, the Healthcare Distribution Management  
5 Association, wrote a brief to a federal court  
6 here in Washington, DC, in support of  
7 Cardinal Health and against the DEA.

8 Was McKesson Corporation aware  
9 of this amicus brief?

10 MS. HENN: Objection to form.  
11 Outside the scope.

12 MR. FARRELL: It's actually  
13 not. It's actually referenced  
14 directly in the notice.

15 MS. HENN: I'm not sure that's  
16 the case, but we can disagree about  
17 that.

18 THE WITNESS: I don't know for  
19 100 percent certain, but I assume so.

20 QUESTIONS BY MR. FARRELL:

21 Q. Well, I don't want you to  
22 guess. This is relatively important.

23 Have you seen any  
24 acknowledgement within McKesson Corporation  
25 validating or affirming or reviewing or

1 participating in this amicus brief?

2 A. I have not.

3 Q. Are you aware of McKesson being  
4 involved at all in the amicus briefs?

5 MS. HENN: Objection to form.

6 THE WITNESS: I'm not.

7 (McKesson-Hartle Exhibit 28  
8 marked for identification.)

9 QUESTIONS BY MR. FARRELL:

10 Q. I'm going to have marked  
11 Exhibit 28, 2012\_05\_05.

12 Are you aware of the Wayback  
13 Machine?

14 A. Excuse me?

15 Q. Are you aware of the Wayback  
16 Machine?

17 A. I am not.

18 Q. The Wayback Machine is an  
19 Internet service that's free, and what it  
20 does is it's able to go and bring up old  
21 websites based on dates and time.

22 And it just so happens that the  
23 Wayback Machine captured the HDMA website in  
24 May of 2012. This comes from the HDMA  
25 website, and this is a list of the board of

1 directors.

2 Now, what's an executive  
3 committee on a board of directors?

4 MS. HENN: Objection to form.

5 Outside the scope.

6 THE WITNESS: That's the senior  
7 leaders driving this group.

8 QUESTIONS BY MR. FARRELL:

9 Q. And, Mr. McKesson Corporation,  
10 you were on the executive committee of HDMA  
11 of 2012, were you not?

12 MS. HENN: Objection to form.

13 Outside the scope.

14 THE WITNESS: One of our senior  
15 leaders is.

16 QUESTIONS BY MR. FARRELL:

17 Q. You're in the senior leadership  
18 of HDMA, and you signed off on an amicus  
19 brief submitted to a federal court in  
20 Washington, DC, in support of one of your  
21 colleagues and members, Cardinal Health.

22 MS. HENN: Objection to form.

23 Outside the scope.

24 QUESTIONS BY MR. FARRELL:

25 Q. So I'm going to ask you a

1 couple of questions about it.

2 A. Okay.

3 Q. If you flip to page 3...

4 A. Of the brief?

5 Q. Of the brief.

6 The very bottom of the page --

7 MS. HENN: Are you talking

8 about the Bates numbers or the --

9 MR. FARRELL: Yeah, the Bates  
10 number.

11 MS. HENN: Thank you.

12 QUESTIONS BY MR. FARRELL:

13 Q. It says, "HDMA's members have  
14 not only statutory and regulatory  
15 responsibilities to detect and prevent  
16 diversion of controlled prescription drugs,  
17 but undertake such efforts as responsible  
18 members of society."

19 Do you see that?

20 A. I do.

21 Q. Do you recognize this as an  
22 acknowledgement that all of the distributors  
23 in the country have a common law duty to the  
24 people of the United States of America to  
25 prevent diversion of controlled substances

1     because you're selling controlled substances?

2                   MR. SUDDATH:  Objection.

3                   MS. HENN:  Objection to form.

4                   Outside the scope.

5                   THE WITNESS:  Okay.  Could you

6                   ask me that again?

7     QUESTIONS BY MR. FARRELL:

8                   Q.       Do you recognize this as an  
9     acknowledgement that all of the distributors  
10    in the country have a common law duty to the  
11    American citizens to prevent controlled  
12    substances from being diverted into the  
13    illicit market?

14                   MR. SUDDATH:  Objection.

15                   MS. HENN:  Objection to form.

16                   Outside the scope.

17    QUESTIONS BY MR. FARRELL:

18                   Q.       I mean, isn't this what we  
19    talked about earlier?

20                   A.       I do.

21                   Q.       You do, don't you?  Yes?

22                   A.       Yes.

23                   Q.       Because it's not just  
24    statutory, regulatory.  You're engaged in  
25    selling opium pills.  You owe a duty to the

1 American people to do your very best to  
2 prevent diversion.

3 MS. HENN: Objection to form.

4 Outside the scope.

5 QUESTIONS BY MR. FARRELL:

6 Q. Agreed?

7 A. Agreed.

8 Q. And this is your trade  
9 organization making the same representation  
10 to a federal court in Washington, DC?

11 MS. HENN: Same objections.

12 Objection to form. Outside the scope.

13 THE WITNESS: Yes.

14 QUESTIONS BY MR. FARRELL:

15 Q. Next sentence: "The public  
16 health dangers associated with the diversion  
17 and abuse of controlled prescription drugs  
18 have been well-recognized over the years by  
19 Congress, DEA, HDMA and its members, and  
20 public health authorities."

21 Is that all true?

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: Yes.

25

1 QUESTIONS BY MR. FARRELL:

2 Q. The next sentence. This is the  
3 part that I'd like to talk to you about, the  
4 highlighted part. "The agency," meaning DEA,  
5 "has failed to provide meaningful guidance to  
6 assist the regulated industry in complying  
7 with the DEA's interpretation of its  
8 implementing regulations. HDMA respectfully  
9 submits that despite the agency's oft-recited  
10 refrain that the regulations are clear, the  
11 regulated industry does not know the rules of  
12 the road because DEA has not adequately  
13 explained them."

14 McKesson has said the opposite  
15 publicly and to its own people, agreed?

16 MS. HENN: Object to form.

17 QUESTIONS BY MR. FARRELL:

18 Q. Remember the slide that said  
19 clear? Remember your testimony about the  
20 letters and the settlement agreement? You  
21 said a few minutes ago it was clear.

22 A. I do remember all of that. I  
23 also --

24 MS. HENN: Object to form.

25 Go ahead.

1 THE WITNESS: Oh, excuse me.

2 I also remember saying that  
3 certain parts of those regulations  
4 related to what a suspicious order is  
5 is not clear.

6 QUESTIONS BY MR. FARRELL:

7 Q. Page 7. "The societal costs of  
8 prescription drug abuse are" -- what's it  
9 say?

10 A. I flipped to the wrong page.  
11 Excuse me.

12 "Huge."

13 Q. And if a distributor engages in  
14 unlawful conduct, should the distributor be  
15 held accountable for such societal costs?

16 MS. HENN: Objection to form.  
17 Outside the scope.

18 THE WITNESS: Can you repeat  
19 that, please?

20 QUESTIONS BY MR. FARRELL:

21 Q. If a wholesale distributor  
22 engages in unlawful conduct, should it be  
23 held accountable for the societal costs of  
24 prescription drug abuse?

25 MR. SUDDATH: Objection.

1 MS. HENN: Same objections.

2 THE WITNESS: I believe  
3 distributors have a responsibility in  
4 preventing diversion.

5 QUESTIONS BY MR. FARRELL:

6 Q. So should they be held  
7 accountable for the societal costs that are  
8 documented in this pleading and referenced as  
9 huge?

10 A. I think it depends.

11 MS. HENN: Objection to form.

12 QUESTIONS BY MR. FARRELL:

13 Q. Depends on what?

14 MS. HENN: Same objection.

15 Go ahead.

16 THE WITNESS: It depends on the  
17 facts and circumstances and, you know,  
18 the information about the specific  
19 situation.

20 QUESTIONS BY MR. FARRELL:

21 Q. If a distributor repeatedly  
22 fails to report suspicious orders, do you  
23 believe it should be held accountable for the  
24 societal costs of prescription drug abuse?

25 MR. SUDDATH: Objection.

1 MS. HENN: Objection to form.

2 THE WITNESS: And I believe it  
3 depends.

4 QUESTIONS BY MR. FARRELL:

5 Q. On?

6 A. The facts and circumstances.

7 Q. How about the facts and  
8 circumstances which led to McKesson paying  
9 \$150 million fine?

10 MS. HENN: Objection to form.

11 THE WITNESS: Again, I think it  
12 depends.

13 QUESTIONS BY MR. FARRELL:

14 Q. Do you think McKesson is partly  
15 responsible for the societal costs of  
16 prescription drug abuse in America?

17 MS. HENN: Objection to form.

18 THE WITNESS: Could you ask  
19 that one again, please?

20 QUESTIONS BY MR. FARRELL:

21 Q. Do you think McKesson is partly  
22 responsible for the societal costs of  
23 prescription drug abuse in America?

24 MS. HENN: Objection to form.

25 THE WITNESS: Again, there's a

1           lot of people involved in -- it's a  
2           very complicated and multi-faceted  
3           issue, so...

4   QUESTIONS BY MR. FARRELL:

5           Q.       We'll get to the other people  
6   in a second.

7                   MS. HENN:   Are you done with  
8           your answer?

9                   THE WITNESS:   I am done.

10                  MS. HENN:   Okay.

11   QUESTIONS BY MR. FARRELL:

12           Q.       We'll get to the others in a  
13   second.   I want to talk about McKesson first.

14                   This is your opportunity to  
15   accept partial responsibility for the  
16   societal costs of prescription drug abuse in  
17   America; yes or no?

18                  MS. HENN:   Objection to form.

19           Also outside the scope.

20                  THE WITNESS:   So again, it  
21   depends on -- it depends.

22   QUESTIONS BY MR. FARRELL:

23           Q.       You're McKesson Corporation.

24           A.       Right.

25           Q.       You're sitting here today.   You

1 have the opportunity to look in the camera  
2 and tell the jury whether or not you accept  
3 partial responsibility for the societal costs  
4 of prescription drug abuse in America.

5 MS. HENN: Objection to form.

6 Outside the scope.

7 QUESTIONS BY MR. FARRELL:

8 Q. I'd ask you to answer yes or  
9 no.

10 MS. HENN: Same objections.

11 THE WITNESS: I'm not sure how  
12 to answer that -- that question  
13 specifically.

14 QUESTIONS BY MR. FARRELL:

15 Q. Well, you can say yes or --

16 A. I understand that.

17 Q. -- you can say no.

18 A. I understand that.

19 MS. HENN: Objection to form.

20 QUESTIONS BY MR. FARRELL:

21 Q. If I asked you the same  
22 question in your personal capacity, would  
23 that help you answer the question better?

24 MS. HENN: Same objection.

25 Objection to form.

1 THE WITNESS: Again, it  
2 depends -- I would say it doesn't  
3 change my answer. It depends on the  
4 role that they played.

5 QUESTIONS BY MR. FARRELL:

6 Q. Well, back to McKesson  
7 Corporation, which is you sitting in the  
8 chair today. Knowing what you know as the  
9 30(b)(6) representative, the corporate  
10 designee, knowing about your past conduct,  
11 knowing about the past interactions with the  
12 DEA, I'm going to ask you again: Does  
13 McKesson Corporation accept partial  
14 responsibility for the societal costs of  
15 prescription drug abuse in America?

16 MS. HENN: Objection to form.

17 THE WITNESS: Again, you know,  
18 I -- we're part of the closed system,  
19 so we're responsible for preventing  
20 diversion.

21 QUESTIONS BY MR. FARRELL:

22 Q. So the answer is?

23 MS. HENN: Objection to form.

24 THE WITNESS: Again, I think  
25 we're responsible for something. I

1 don't know what -- how you define all  
2 societal costs and -- I still believe  
3 it depends on different circumstances.

4 QUESTIONS BY MR. FARRELL:

5 Q. Sir, we're not going to parse  
6 out percentages.

7 A. Yeah.

8 Q. Let's just talk globally for  
9 McKesson Corporation. So I don't want to put  
10 words in your mouth because it's got to come  
11 out of your mouth. So the answer is yes or  
12 no.

13 MS. HENN: Objection to form.

14 THE WITNESS: I would say yes,  
15 partially.

16 QUESTIONS BY MR. FARRELL:

17 Q. How about Purdue Pharma? Does  
18 McKesson Corporation take the position that  
19 Purdue Pharma is partially responsible for  
20 the societal costs of prescription drug abuse  
21 in America?

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: I'm not going to  
25 answer for other companies. I'm --

1           it's like I answered my question:  
2           Those involved in this space,  
3           depending on the facts and  
4           circumstances, may be. So, yes.

5       QUESTIONS BY MR. FARRELL:

6           Q.       Flip to page 8, the last  
7       paragraph. Your trade organization is saying  
8       that the "DEA's goal, the prevention of  
9       diversion of controlled prescription drugs,  
10      is, of course, a public good."

11                   Does McKesson validate,  
12      acknowledge and affirm that statement?

13                   MS. HENN: Objection to form.

14                   THE WITNESS: Absolutely. The  
15      prevention of the diversion of  
16      controlled substances is good for the  
17      public.

18                   (McKesson-Hartle Exhibit 29  
19      marked for identification.)

20      QUESTIONS BY MR. FARRELL:

21           Q.       Next exhibit I'm going to have  
22      marked is Exhibit 29. It's Exhibit  
23      2013\_09\_13. It's Bates stamp  
24      MCK-AGMS-006000880.

25                   Have you seen this document?

1 A. I have not.

2 Q. Do you know who Gary Boggs is?

3 A. I do know Gary.

4 Q. I'll represent to you that on  
5 the metadata that was provided by the --  
6 McKesson, indicates that this presentation is  
7 dated in late 2012 -- wait, late 2013, I  
8 think, probably before Gary Boggs came on to  
9 McKesson. We'll ask him when we depose him.

10 But anyway, this is a McKesson  
11 spreadsheet from Gary Boggs. Gary Boggs is  
12 former DEA.

13 A. PowerPoint, not spreadsheet.

14 Q. Yeah, I'm sorry.

15 A. Okay.

16 Q. He's former DEA, correct?

17 A. Correct.

18 Q. He was the number 2 man on Joe  
19 Rannazzisi, yes?

20 A. Yes.

21 Q. And as we'll see later, he was  
22 actually in the room for one of the  
23 presentations when DEA was negotiating with  
24 McKesson on the 2008 settlement.

25 Is that your memory as a

1 corporate entity?

2 MS. HENN: Objection to form.

3 THE WITNESS: I wasn't aware

4 that he was specifically in the room,

5 but...

6 QUESTIONS BY MR. FARRELL:

7 Q. The title of this PowerPoint

8 slide is what?

9 A. Oh, "State of prescription drug  
10 abuse."

11 Q. And on the second page, talks

12 about the impact of effective compliance.

13 And it uses lots of America-related stuff,

14 eagles and flags and such.

15 Do you see that?

16 A. I do see that.

17 Q. "Protecting America from

18 Prescription Drug Diversion."

19 The next page is a history of

20 understanding the problem, and on page 4 it

21 talks about a collision course.

22 And presumably this is two

23 planes colliding in the air, and that's

24 OxyContin and Percocet.

25 Do you see that?

1 MS. HENN: Objection to form.

2 THE WITNESS: I see that.

3 QUESTIONS BY MR. FARRELL:

4 Q. "In the late 1990s, doctors  
5 aggressively prescribing painkillers - a  
6 radical change in health care behavior."

7 And that radical change in  
8 health care behavior did what to the number  
9 of prescriptions?

10 MS. HENN: Objection to form.

11 THE WITNESS: Increased them.

12 QUESTIONS BY MR. FARRELL:

13 Q. Which resulted in an increase  
14 or decrease in the number of pills McKesson  
15 sold?

16 A. I don't know exact numbers, but  
17 it increased.

18 Q. And then the last part,  
19 "Manufacturers fueled the use of prescription  
20 painkillers."

21 This is coming from your new  
22 head of regulatory affairs at McKesson,  
23 agreed?

24 MS. HENN: Objection to form.

25 THE WITNESS: Can you say that

1 again?

2 QUESTIONS BY MR. FARRELL:

3 Q. Yeah.

4 A. He's not -- he wasn't the head  
5 of regulatory affairs.

6 Q. Then, but he is now?

7 A. He's one of the leaders on the  
8 regulatory affairs team.

9 Q. Okay. And this is his  
10 statement that "Manufacturers fueled the use  
11 of prescription painkillers."

12 Is that McKesson's position?

13 MS. HENN: Objection to form.

14 THE WITNESS: I don't know if  
15 that's his own specific words or he  
16 got that from a previous deck from  
17 DEA. I'm not sure.

18 QUESTIONS BY MR. FARRELL:

19 Q. We'll have to ask him.

20 But I'm asking McKesson whether  
21 or not it shares this view.

22 MS. HENN: Objection to form.

23 Outside the scope.

24 THE WITNESS: Manufacturers are  
25 part of the closed system, like -- and

1           played a role.

2       QUESTIONS BY MR. FARRELL:

3           Q.       Does McKesson believe the  
4       manufacturers fueled the use of prescription  
5       painkillers?

6                   MS. HENN:  Objection to form.  
7       Outside the scope.

8                   THE WITNESS:  I think they  
9       played a role.  I think there's many  
10      reasons -- many things that fueled the  
11      epidemic.

12     QUESTIONS BY MR. FARRELL:

13           Q.       So would you rather just punt  
14      on the question?

15                   MS. HENN:  Objection to form.

16                   THE WITNESS:  That's what I'm  
17      going to share.  That's my answer.

18     QUESTIONS BY MR. FARRELL:

19           Q.       So yes or no, does McKesson  
20      Corporation believe manufacturers fueled the  
21      use of prescription painkillers?

22                   MS. HENN:  Objection to form.  
23      Outside the scope.

24                   THE WITNESS:  Like I said,  
25      my -- they're part of the system.

1           They played a role.

2       QUESTIONS BY MR. FARRELL:

3           Q.       So the answer is?

4           A.       They played a role. I wouldn't  
5       say -- I wouldn't characterize it as fueled.  
6       I don't know that I would use that language.

7           Q.       Fair enough.

8                    The next page, 5 and 6,  
9       document Purdue Pharma's \$635 million fine,  
10      Cephalon's \$425 million fine.

11                   Going to page 7, it's comparing  
12      the US rates of opioid overdose deaths, sales  
13      and treatment admissions.

14                   Do you see that?

15           A.       I see that.

16           Q.       What is the correlation between  
17      opioid sales and opioid deaths? Are they  
18      related or unrelated?

19                   MS. HENN: Objection to form.

20                   THE WITNESS: They're both  
21      increasing at a similar rate.

22      QUESTIONS BY MR. FARRELL:

23           Q.       So that means they're related  
24      or unrelated?

25                   MS. HENN: Objection to form.

1 THE WITNESS: They appear to be  
2 related.

3 QUESTIONS BY MR. FARRELL:

4 Q. Does McKesson believe that  
5 opioid sales are related to opioid deaths?

6 MS. HENN: Objection to form.  
7 Outside the scope.

8 THE WITNESS: Can you ask that  
9 one more time, please?

10 QUESTIONS BY MR. FARRELL:

11 Q. Does McKesson believe that  
12 opioid sales are related to opioid deaths?

13 MS. HENN: Objection to form.  
14 Outside the scope.

15 THE WITNESS: The volume of  
16 opioids in the market and diversion is  
17 related to opioid deaths, certainly.

18 QUESTIONS BY MR. FARRELL:

19 Q. Page 8, the Controlled  
20 Substances Act, the very last provision says,  
21 "Creates checks and balances between  
22 registrants to protect the public health and  
23 safety."

24 Again, this is again a  
25 reaffirmation from Gary Boggs, who is now one

1 of your senior regulatory affairs management,  
2 acknowledging that the registrants and the  
3 DEA have a duty to protect the public health  
4 and safety, agreed?

5 A. Agreed.

6 Q. Page 13. It says, "What can  
7 happen when these checks and balances  
8 collapse?"

9 What do you believe this is a  
10 picture of?

11 MS. HENN: Objection to form.

12 THE WITNESS: It's a building  
13 falling down.

14 QUESTIONS BY MR. FARRELL:

15 Q. A disaster?

16 A. It's a building that's falling  
17 down. Why it fell down could be a disaster.

18 Q. What do you infer from  
19 Mr. Boggs' implication?

20 A. That things can go wrong,  
21 something can happen.

22 Q. Page 16, pictures of pain  
23 clinics and people waiting in line to  
24 purchase pills sold by McKesson to  
25 pharmacies.

1 MS. HENN: Objection to form.

2 MR. FARRELL: You're right.

3 That's not necessarily a picture of

4 McKesson.

5 QUESTIONS BY MR. FARRELL:

■

■

■

■

■

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12 QUESTIONS BY MR. FARRELL:

13 Q. Page 17, historical comparison.

14 He's comparing the opioid crisis to the BP

15 oil spill where 11 people were killed and BP

16 paid 40 billion, plus 16 billion to the Clean

17 Water Act.

18 Have more or less than 11

19 people been killed by the opioid crisis?

20 A. Clearly more.

21 Q. Have more people died today

22 than 11 people?

23 MS. HENN: Objection to form.

24 THE WITNESS: Based on the

25 statistics, yes.

1 QUESTIONS BY MR. FARRELL:

2 Q. Page 24. Does McKesson  
3 acknowledge and agree there is a national  
4 epidemic of prescription pill addiction,  
5 abuse, morbidity and mortality?

6 MS. HENN: Objection to form.

7 THE WITNESS: Absolutely.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Age Group	Percentage
18-24	10%
25-34	20%
35-44	25%
45-54	20%
55-64	15%
65-74	10%
75-84	5%
85+	5%

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[illegible]

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4 QUESTIONS BY MR. FARRELL:

5 Q. They all originate within the  
6 closed network, do they not?

7 MS. HENN: Objection to form.

8 THE WITNESS: What do you mean  
9 by "all originate"?

10 QUESTIONS BY MR. FARRELL:

11 Q. Well, Bob, in his trailer in  
12 southern West Virginia, isn't making  
13 OxyContin pills.

14 A. No, I'm saying there's other --  
15 I understand your point. They come  
16 ultimately from the manufacturer,  
17 distributor, pharmacy.

18 (McKesson-Hartle Exhibit 30  
19 marked for identification.)

20 QUESTIONS BY MR. FARRELL:

21 Q. Exhibit 30, 2013\_10\_23, Bates  
22 stamp MCKMDL00409046. This is October 23,  
23 2013.

24 McKesson is in trouble again  
25 with the DEA, agreed?

1 MS. HENN: Objection to form.

2 THE WITNESS: There's

3 allegations.

4 QUESTIONS BY MR. FARRELL:

5 Q. Same ones as before, agreed?

6 MS. HENN: Objection to form.

7 THE WITNESS: Related to the

8 regulations.

9 QUESTIONS BY MR. FARRELL:

10 Q. Same as the 2008?

11 MS. HENN: Objection to form.

12 THE WITNESS: Around suspicious

13 orders.

14 (McKesson-Hartle Exhibit 31

15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. Exhibit 31, dated November 6,

18 2013. It's 2013\_11\_6, MCKMDL00409048.

19 It's again from the United

20 States Attorney in the Northern District of

21 West Virginia. It's talking about further

22 explanations.

23 You would agree with me this is

24 the same conduct that McKesson got in trouble

25 for in 2008?

1 MS. HENN: Objection to form.

2 THE WITNESS: Yeah, it has to  
3 do with suspicious orders, which is  
4 similar.

5 QUESTIONS BY MR. FARRELL:

6 Q. And it's Covington & Burlington  
7 at a place called 1201 Pennsylvania Avenue,  
8 Northwest.

9 Do you know where that is?  
10 Isn't that here?

11 MS. HENN: Old office.

12 MR. FARRELL: The old office.  
13 All right.

14 THE WITNESS: In town.

15 QUESTIONS BY MR. FARRELL:

16 Q. But again, this is the same  
17 thing.

18 Do you know Bill Ihlenfeld?

19 A. I do not.

20 Q. Yeah, he was the US Attorney  
21 for the Northern District of West Virginia  
22 and a classmate of mine. He's calling on  
23 McKesson, and he's essentially telling  
24 McKesson, "Hey, you're not doing your job  
25 again."

1 MS. HENN: Objection to form.

2 QUESTIONS BY MR. FARRELL:

3 Q. "And you're dumping pills into  
4 my state."

5 MS. HENN: Same objection.

6 (McKesson-Hartle Exhibit 32  
7 marked for identification.)

8 QUESTIONS BY MR. FARRELL:

9 Q. Exhibit 32, 2014\_1\_XX,  
10 MCKMDL00409050. In fact, they put a whole  
11 presentation together.

12 Have you seen this  
13 presentation?

14 A. I have seen this one.

15 Q. I'm not going to go through  
16 this because we'll go through with it a lot  
17 more tomorrow.

18 In essence, what I'm trying to  
19 accomplish here is that you understand that  
20 the United States District Attorney for the  
21 Northern District of Ohio, and then it turns  
22 out other ones, including Colorado, are  
23 basically telling McKesson: You have a  
24 systemic failure to monitor, detect and  
25 report suspicious orders.

1 Is that what they're alleging?

2 MS. HENN: Objection to form.

3 THE WITNESS: Yes, that's what  
4 they're alleging.

5 (McKesson-Hartle Exhibit 33  
6 marked for identification.)

7 QUESTIONS BY MR. FARRELL:

8 Q. Exhibit 33, this is your  
9 response, 2014\_03\_12, Bates-stamped  
10 MCKMDL00409116.

11 This is you responding, saying,  
12 "Nuh-uh, no, we didn't."

13 Does that about wrap it up?

14 MS. HENN: Objection to form.

15 QUESTIONS BY MR. FARRELL:

16 Q. You've seen this document  
17 before?

18 A. I have not, so I'm going to go  
19 through it.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 MS. HENN: Objection to form.

14 (McKesson-Hartle Exhibit 34

15 marked for identification.)

16 QUESTIONS BY MR. FARRELL:

17 Q. In fact, Exhibit 34 is the  
18 response to the presentation, March 20, 2014.  
19 It's 2014\_03\_20, MCKMDL00409174, from my good  
20 friend Bill Ihlenfeld's office, which  
21 basically says "bull."

22 MS. HENN: Counsel, just to  
23 clarify, I think Exhibit 33 you  
24 might -- you have two documents in  
25 here.

1 MR. FARRELL: Maybe. It may  
2 have included it.

3 MS. HENN: Ah, is that why?

4 MR. FARRELL: Maybe.

5 MS. HENN: Okay. That's fine.

6 Just wanted to make sure you knew.

7 QUESTIONS BY MR. FARRELL:

■ ■ [REDACTED]

■ [REDACTED]

10 A. Can I read this one? I have  
11 not read this one before.

12 Q. Okay. I'm not going to drill  
13 you on that letter. It's got --

14 A. No, I'm about done. I just  
15 wanted to read the summary here, too.

16 Okay. Thank you.

17 Q. Now, skipping through all of  
18 the other correspondence because we'll get  
19 into that more tomorrow, more recently, as a  
20 result of all of this, even though McKesson  
21 is denying liability, you understand that  
22 McKesson did enter into another settlement  
23 agreement?

24 A. I understand that.

25 (McKesson-Hartle Exhibits 35,

1 36 and 37 marked for identification.)

2 QUESTIONS BY MR. FARRELL:

3 Q. 2017\_01\_05A, 35, Exhibit 35,  
4 MCKMDL00355322, the settlement agreement and  
5 release.

6 Exhibit 37, 2017\_01\_5B,  
7 MCKMDL00355477.

8 MS. HENN: Did you skip 36?

9 QUESTIONS BY MR. FARRELL:

10 Q. I didn't.  
11 36 will be 2017\_01\_05B, the  
12 compliance addendum.

13 MS. HENN: 37.

14 MR. FARRELL: Oh, okay, I'm  
15 sorry. But it's okay because we'll  
16 just put 36 as the administrative  
17 memorandum, which is 2017\_01\_5C,  
18 MCKMDL0355513.

19 MS. HENN: And, Counsel, we've  
20 been going about an hour, so if we  
21 could have a break at a good stopping  
22 point. It doesn't have to be this  
23 second, but if there's one very soon,  
24 that would be great.

25 MR. FARRELL: Yeah, very soon.

1 MS. HENN: Great.

2 QUESTIONS BY MR. FARRELL:

3 Q. Just to acknowledge, McKesson's  
4 still is denying liability, and this time the  
5 cost has become more prohibitive with the  
6 fine, 150 million.

7 MS. HENN: Objection to form.

8 QUESTIONS BY MR. FARRELL:

9 Q. Agreed?

10 A. Agreed. We settled with the  
11 settlement agreement, agreed.

12 Q. McKesson's distribution  
13 facilities were systematically failing to  
14 report suspicious orders and resulted in a  
15 \$150 million fine assessed by the DEA and  
16 paid by McKesson Corporation; true or not  
17 true?

18 MS. HENN: Objection to form.

19 THE WITNESS: We did pay that  
20 fine, \$150 million.

21 QUESTIONS BY MR. FARRELL:

22 Q. Because you were systematically  
23 not reporting suspicious orders?

24 MS. HENN: Same objection.

25 THE WITNESS: That was at the

1 core of it.

2 QUESTIONS BY MR. FARRELL:

3 Q. So let's just be fair. There  
4 were certain distribution facilities that  
5 utterly failed to fulfill their obligations  
6 under federal law to monitor, detect, halt  
7 and report suspicious orders, which resulted  
8 in McKesson paying the largest fine in the  
9 history of the DEA; true or not true?

10 MS. HENN: Objection to form.

11 THE WITNESS: Could you  
12 simplify that question a little bit?

13 QUESTIONS BY MR. FARRELL:

14 Q. Yeah.

15 McKesson wasn't following the  
16 law and got fined \$150 million?

17 MS. HENN: Objection to form.

18 THE WITNESS: We acknowledged  
19 that certain orders did not get  
20 flagged in our system.

21 QUESTIONS BY MR. FARRELL:

22 Q. Thousands.

23 MS. HENN: Objection to form.

24 QUESTIONS BY MR. FARRELL:

25 Q. Thousands of orders?

1 A. Orders.

2 Q. Like some facilities reported

3 none.

4 MS. HENN: Objection to form.

5 QUESTIONS BY MR. FARRELL:

6 Q. Yes?

7 A. Systematically none.

8 Q. Systematically none.

9 And it wasn't just an isolated  
10 distribution facility. It was several  
11 different facilities across the spectrum at  
12 McKesson had utterly failed to comply with  
13 federal regulations to prevent diversion of  
14 controlled substances?

15 MS. HENN: Objection to form.

16 THE WITNESS: We believed we  
17 were in good faith working with DEA as  
18 part of the 2008 agreement to report  
19 customers and report orders in a  
20 different way that was mutually agreed  
21 upon. So --

22 QUESTIONS BY MR. FARRELL:

23 Q. Yeah, I'm not asking --

24 A. -- I would say --

25 MR. FARRELL: You're right.

1           You're right.

2                   THE WITNESS: I know you say  
3           zero, but I -- you know, there are  
4           situations and scenarios where we  
5           reported based on what we agreed to  
6           with the DEA, based on that settlement  
7           agreement.

8                   So I understand systematically  
9           they weren't being reported, but they  
10          were being reported in other ways.

11       QUESTIONS BY MR. FARRELL:

12               Q.       Sitting here today does  
13       McKesson Corporation acknowledge that it  
14       utterly failed in its obligations to prevent  
15       diversion of opium pills into the American  
16       illicit market?

17                   MS. HENN: Objection to form.

18                   THE WITNESS: No, I don't  
19       believe we utterly failed. We, again,  
20       in good faith over the years have  
21       worked with DEA, taken guidance,  
22       developed programs, enhanced programs,  
23       evolved them over the course of time.

24                   So I wouldn't characterize it  
25       as utterly failing.

1 QUESTIONS BY MR. FARRELL:

2 Q. Well, when you report zero  
3 suspicious orders over years at the same time  
4 selling tens of millions of opium pills into  
5 a community, you're not meeting your  
6 obligations under federal law, agreed?

7 MS. HENN: Objection to form.

8 THE WITNESS: Again, there's  
9 certain times in which we acknowledged  
10 that we did not report orders. That  
11 does not mean that we did not conduct  
12 diligence, that we did not evolve our  
13 program to help prevent.

14 QUESTIONS BY MR. FARRELL:

15 Q. And I understand the desire to  
16 want to say in good faith you did your best.  
17 What I'm asking for is a very simple  
18 acknowledgement that McKesson was not  
19 following the law and got fined for it on two  
20 occasions.

21 MS. HENN: Objection to form.

22 THE WITNESS: Those were the  
23 allegations.

24 QUESTIONS BY MR. FARRELL:

25 Q. Do you accept those allegations

1 as partially true?

2 MS. HENN: Objection to form.

3 THE WITNESS: Again, we --

4 partially, in the second agreement, we

5 did acknowledge that, you know, we

6 didn't identify all the suspicious

7 orders that we could have.

8 QUESTIONS BY MR. FARRELL:

9 Q. In fact, in some distribution  
10 facilities you didn't identify any?

11 MS. HENN: Objection to form.

12 QUESTIONS BY MR. FARRELL:

13 Q. This isn't like we missed a  
14 needle in a haystack. This is we missed the  
15 hay.

16 MS. HENN: Objection to form.

17 THE WITNESS: So the thing I  
18 would just share is that, again, all  
19 of those orders were blocked and not  
20 shipped. And we may not have  
21 systematically, as I mentioned  
22 earlier, reported, but --

23 MR. FARRELL: Hold on.

24 MS. HENN: Wait, he's not done  
25 with his answer.

1 THE WITNESS: I'm just  
2 reiterating the point I made earlier  
3 about the 2008 agreement, mutually  
4 discussing with DEA the fact that we  
5 were focusing on customers and would  
6 report suspicious orders in a mutually  
7 format -- a mutually-agreed-upon  
8 format.

9 So you say zero, but it may not  
10 always be zero.

11 QUESTIONS BY MR. FARRELL:

12 Q. Just to be fair with you, we're  
13 going to take a break.

14 A. All right.

15 Q. I have the transactional data  
16 in Cuyahoga and Summit County from McKesson  
17 sales of opium pills. I also have the  
18 suspicious order reports.

19 So let's be clear: McKesson  
20 didn't get in trouble for blocking orders and  
21 not reporting them. McKesson paid a record  
22 fine for shipping suspicious orders and not  
23 reporting them.

24 MS. HENN: Objection to form.

25 THE WITNESS: Say that again.

1 I want to be very clear what I heard.

2 QUESTIONS BY MR. FARRELL:

3 Q. Me, too.

4 A. Yeah.

5 Q. You're telling me that  
6 McKesson's conduct that it admitted to,  
7 McKesson's position is that it blocked  
8 suspicious orders and then just simply didn't  
9 report them in the right way. That's your  
10 position?

11 A. We systematically -- based on  
12 the design of our system, orders were  
13 blocked.

14 Q. You believe that McKesson was  
15 blocking all the suspicious orders and paid  
16 \$150 million because of the manner in which  
17 it reported?

18 A. Earlier I said we did  
19 acknowledge that some orders, not all, we  
20 didn't block.

21 Q. Okay. So let's get back --

22 A. We didn't -- let me rephrase  
23 that. We acknowledge that our system may not  
24 have detected orders that could be deemed as  
25 suspicious.

1 Q. And that the orders that your  
2 system did detect as suspicious, you still  
3 shipped anyway without reporting them?

4 MS. HENN: Objection to form.

5 THE WITNESS: No.

6 QUESTIONS BY MR. FARRELL:

7 Q. You believe that's not true?

8 A. Based on my understanding of  
9 our systems and how things work in -- when  
10 they hit a threshold and they're blocked,  
11 those do not get shipped.

12 Q. All right. So fair --

13 A. That's how we define those  
14 suspicious orders.

15 Q. Fair enough.

16 Let me ask you this: If your  
17 system detects a suspicious order and you  
18 ship it anyway and you don't report it, is  
19 that unlawful?

20 MS. HENN: Objection to form.

21 THE WITNESS: Please say that  
22 again.

23 QUESTIONS BY MR. FARRELL:

24 Q. If your system detects a  
25 suspicious order and you ship it anyway

1 without reporting it, is that unlawful?

2 MS. HENN: Objection to form.

3 THE WITNESS: I think it  
4 depends.

5 QUESTIONS BY MR. FARRELL:

6 Q. On?

7 A. There could be a technical  
8 glitch --

9 Q. Okay.

10 A. -- or some computer error. I  
11 mean --

12 Q. I'm talking about hundreds and  
13 hundreds and hundreds of orders that are  
14 red-flagged by McKesson and shipped anyway  
15 without reporting a suspicious order.

16 The US Attorney for the  
17 Northern District of West Virginia doesn't  
18 say this was a technical glitch. He says it  
19 was a systematic failure by your company to  
20 abide by West Virginia law -- or federal law.

21 You paid a record fine, and  
22 you're disavowing the underlying conduct  
23 today?

24 MS. HENN: Objection to form.

25 THE WITNESS: I'm just trying

1           to communicate that our system that  
2           was designed to detect suspicious  
3           orders using the concept of thresholds  
4           blocked all of the -- blocked those  
5           suspicious orders.

6                     We recognize that and  
7           acknowledge that it may not have  
8           picked up on all of the suspicious  
9           orders and...

10                    MR. FARRELL: One more and  
11           we'll take a quick break.

12                    MS. HENN: If it's okay, I'd  
13           like to take it now. It's been now an  
14           hour and 15 minutes. It's pretty  
15           tiring to be a witness. So if we  
16           could just take a five-minute break,  
17           that would be great.

18                    MR. FARRELL: Okay.

19                    MS. HENN: Thank you.

20                    VIDEOGRAPHER: The time is 4:29  
21           p.m. We're going off the record.

22                    (Off the record at 4:29 p.m.)

23                    VIDEOGRAPHER: The time is  
24           4:45 p.m. We're back on the record.

25                    MR. FARRELL: Thank you.

1                   So we have about an hour left;  
2                   we've been going about -- almost six  
3                   hours. So by agreement we've kept the  
4                   deposition days to seven hours long,  
5                   and I'll honor that.

6                   MS. HENN: More than by  
7                   agreement. It's also ordered by the  
8                   judge.

9                   MR. FARRELL: No question.

10                  MS. HENN: Just a slight  
11                  clarification.

12                  MR. FARRELL: No question.  
13                  Seven hours of answering questions is  
14                  enough for anybody.

15                  MS. HENN: It is.

16                  MR. FARRELL: That being said,  
17                  I know there's a burden on travel and  
18                  arrangements; we have a tight  
19                  schedule. So what I'm going to do is  
20                  I'm going to finish up some topics,  
21                  and I'm going to state for the record  
22                  that I have not been able to get  
23                  through all of the designated topics  
24                  today.

25                  That being said, there are some

1 additional topics that you were not  
2 designated for. There's essentially  
3 two notices.

4 So what we're -- what I'm going  
5 to do is recommend that I finish up  
6 the topics that I want to get to, and  
7 then tomorrow is your fact deposition.  
8 And what we'll do is work out with  
9 counsel if there are any of these  
10 questions that can be answered in  
11 writing to avoid you having to come  
12 back and testify on things that can be  
13 answered.

14 And then in addition, there are  
15 records and there are -- there is  
16 transactional data historically and  
17 suspicious order report historically  
18 that have not been disclosed yet  
19 because of our tight schedules that  
20 I'll -- I will be going to ask --  
21 eventually to ask for some additional  
22 time from you to finish the stuff we  
23 didn't get to finish and to ask  
24 questions about documents that have  
25 not been disclosed yet.

1                    Obviously, it's going to be  
2                    subject to the objection of your  
3                    lawyers, and I just wanted to place  
4                    that on the record.

5        QUESTIONS BY MR. FARRELL:

6            Q.        Jumping in real quick, I'm not  
7            going to spend a whole lot of time on this; I  
8            have a very specific question.

9                    Before we get into the  
10            document, there's a reference in here about  
11            heroin, and I just wanted to see if I could  
12            cut to the chase with you.

13            A.        Okay.

14            Q.        As the McKesson corporate  
15            representative, do you acknowledge that abuse  
16            of prescription opium pills is a gateway to  
17            the initiation of heroin?

18                    MS. HENN:    Objection to form.  
19            Outside the scope.

20                    THE WITNESS:    Based on  
21            everything that I've read and in the  
22            media and statistics and discussion, I  
23            would agree -- agree to that.

24        QUESTIONS BY MR. FARRELL:

25            Q.        If you abuse prescription

1 opiates, the CDC says that you're 40 times  
2 more likely to initiate heroin use.

3 Does McKesson acknowledge  
4 that -- that prescription opiate pill abuse  
5 is a driving factor in the heroin epidemic  
6 we're also experiencing?

7 MS. HENN: Objection to form.  
8 Outside the scope.

9 THE WITNESS: Yeah, it's a  
10 factor.

11 QUESTIONS BY MR. FARRELL:

12 Q. That was easy.

13 A. Yeah.

14 Q. All right. Back to this amicus  
15 business.

16 (McKesson-Hartle Exhibit 38  
17 marked for identification.)

18 QUESTIONS BY MR. FARRELL:

19 Q. I'm going to mark as  
20 Exhibit 38, it's 2016\_04\_04. This is another  
21 amicus brief. This one is Masters  
22 Pharmaceutical.

23 Does McKesson acknowledge that  
24 in 2016 when this amicus brief was submitted  
25 that it was still on the executive committee

1 of HDMA?

2 MS. HENN: Objection to form.

3 Outside the scope.

4 THE WITNESS: I can't speak to  
5 that. If I saw a list of who was on  
6 the executive committee...

7 (McKesson-Hartle Exhibit 39  
8 marked for identification.)

9 QUESTIONS BY MR. FARRELL:

10 Q. Fair enough. Exhibit 39,  
11 2016\_04\_05, the Wayback Machine.

12 So looking at the Exhibit 39,  
13 can you acknowledge that McKesson was on the  
14 executive board of HDMA --

15 A. Yes.

16 Q. -- at the time that this amicus  
17 brief was submitted?

18 A. Yes.

19 Q. Have you had a chance to review  
20 the amicus brief?

21 A. I had a chance to look at some  
22 of the highlighted sections.

23 Q. So let's go to 2016\_04\_04,  
24 page 5.

25 A. Page 5.

1           Q.       Down the right-hand side, you  
2     can see two-thirds of the way down it starts,  
3     "DEA."   The one below that.   Yeah.

4                   "DEA has required distributors  
5     not only to report suspicious orders but to  
6     investigate orders by interrogating  
7     pharmacies and physicians and take action to  
8     halt suspicious orders before they are  
9     filled.   Those added obligations would  
10    significantly expand a report-only duty of  
11    distributors under the long-standing  
12    regulatory scheme and impose impractical  
13    obligations on distributors."

14                   Is that McKesson's position?

15                   MS. HENN:   Objection to form.

16                   Outside the scope.

17                   THE WITNESS:   Obviously we're  
18     part of the organization.   In parts,  
19     you know, I agree with the added --  
20     what it would -- you know, the added  
21     responsibility or time that it would  
22     take to -- you know, to investigate  
23     each order.

24                   I don't know if I'm answering  
25     your question, but...

1 QUESTIONS BY MR. FARRELL:

2 Q. You're stumbling toward it.

3 A. Yeah.

4 Q. Let's go to page 6, a little  
5 more direct. The second highlighted  
6 provision: "As the final order in this case  
7 underscores, however, DEA now appears to have  
8 changed its position to require that  
9 distributors not only report suspicious  
10 orders but investigate and halt suspicious  
11 orders."

12 This is a 2016 document by your  
13 trade organization, of which McKesson sits on  
14 the executive board, and its telling the DC  
15 Circuit Court of Appeals that it does not  
16 have a duty to investigate and halt  
17 suspicious orders.

18 Does McKesson validate this  
19 position?

20 MS. HENN: Objection to form.

21 THE WITNESS: Can you rephrase  
22 that for me?

23 QUESTIONS BY MR. FARRELL:

24 Q. Yeah.

25 In 2016, your trade

1 organization is telling the second highest  
2 court in the land, the DC Circuit Court of  
3 Appeals, that the DEA is now requiring them  
4 to investigate and halt suspicious orders.

5 Haven't we agreed that's been  
6 the duty since 1971?

7 MS. HENN: Objection to form.

8 Outside the scope.

9 QUESTIONS BY MR. FARRELL:

10 Q. Tough position to defend, isn't  
11 it?

12 MS. HENN: Same objections.

13 THE WITNESS: You know, again,  
14 I -- I recognize that other  
15 distributors have different systems  
16 and have worked with DEA over the  
17 years on different methodologies,  
18 whether it's a threshold to block it  
19 or it's a hold and investigate and  
20 then block it. And so, you know, I  
21 recognize that.

22 QUESTIONS BY MR. FARRELL:

23 Q. You recognize this position is  
24 problematic given your experience, McKesson  
25 Corporation, with the DEA?

1 MS. HENN: Objection to form.

2 THE WITNESS: I recognize that  
3 I'm sure there's lots of disagreements  
4 about this.

5 QUESTIONS BY MR. FARRELL:

6 Q. Yeah.

7 But we're still trying to  
8 figure out from internal communications  
9 whether or not McKesson signed off on this  
10 brief.

11 Are you aware of whether or not  
12 they signed off on this?

13 MS. HENN: Objection to form.

14 THE WITNESS: I don't -- I am  
15 not aware of the process that goes  
16 into signing off on these briefs and  
17 what that specific looks like. I know  
18 how trade organizations work and how  
19 they get to a point of consensus.

20 QUESTIONS BY MR. FARRELL:

21 Q. Let me ask you in a different  
22 way.

23 We talked about the original  
24 enactment of the Controlled Substances Act  
25 where the penalty for engaging in unlawful

1       conduct should be prohibitive.

2                       Do you remember talking about  
3       that this morning?

4               A.       I do.

5               Q.       And so in 2008, McKesson  
6       Corporation paid \$13 million, and in 2017,  
7       McKesson paid \$150 million.

8                       What would happen in today's  
9       world if McKesson went to the DEA and said,  
10      "We don't have a duty to investigate and halt  
11      suspicious orders"? What do you reckon would  
12      happen then?

13                      MS. HENN: Objection to form.  
14                      Outside the scope.

15                      THE WITNESS: I'm not sure  
16                      exactly what would happen, but they  
17                      wouldn't be thrilled.

18      QUESTIONS BY MR. FARRELL:

19               Q.       So what do you think the fine  
20      will be next time?

21               A.       I can't speculate what it would  
22      be. It depends on the facts and  
23      circumstances and...

24               Q.       So just simply stated, sitting  
25      here today, McKesson Corporation, do you

1 accept or reject the position your trade  
2 organization is taking regarding the  
3 interpretation of the shipping requirement  
4 and reporting requirement?

5 MS. HENN: Objection to form.  
6 Outside the scope.

7 THE WITNESS: I apologize. Can  
8 you ask -- ask me again or rephrase?  
9 Do we accept --

10 QUESTIONS BY MR. FARRELL:

11 Q. Yeah.

12 The sentence you see up there  
13 on the screen --

14 A. Yeah.

15 Q. -- submitted by your trade  
16 organization to which McKesson sits as an  
17 executive board member, this is a position in  
18 a legal document submitted to the second  
19 highest court in the United States of  
20 America.

21 Sitting here today, does  
22 McKesson Corporation accept or reject this  
23 position?

24 MS. HENN: Objection to form.  
25 Outside the scope.

1 THE WITNESS: I'd say we accept  
2 this -- accept this --

3 QUESTIONS BY MR. FARRELL:

4 Q. You accept --

5 A. -- as part of that  
6 organization.

7 Q. What is that?

8 A. As being part of that  
9 organization.

10 Q. So your position today is  
11 McKesson does not have a duty to investigate  
12 and halt suspicious orders?

13 MS. HENN: Objection to form.

14 QUESTIONS BY MR. FARRELL:

15 Q. You're in a tough spot here.

16 A. I can tell you what our program  
17 does, right? We halt -- we block suspicious  
18 orders.

19 Q. All right. So let's go  
20 further. Page 8. "The 2006 letter from Joe  
21 Rannazzisi fails to explain how the statutory  
22 command of the US Code 823 Section E, a  
23 command that the Attorney General consider  
24 when adjudicating an application for  
25 registration of the applicant's maintenance

1 of effective controls against diversion" --

2 MS. HENN: I'm sorry, you're on  
3 page 8. I believe the witness is on  
4 page 9.

5 THE WITNESS: Oh, excuse me.  
6 Sorry. I was figuring that out when I  
7 looked up there.

8 QUESTIONS BY MR. FARRELL:

9 Q. I'm sorry.

10 A. No, that's me.

11 Q. Basically, the position in this  
12 brief is they're trying to figure out how in  
13 the world that 2006 letter became a command  
14 to distributors to engage in due diligence  
15 and avoid filling suspicious orders.

16 MS. HENN: Objection to form.

17 QUESTIONS BY MR. FARRELL:

18 Q. How can you defend this  
19 position, knowing that Masters Pharmaceutical  
20 opinion that was released rejected in its  
21 entirety this position?

22 So what I'm really trying to  
23 figure out is whether McKesson has been so  
24 intransigent that it continues to pay fines  
25 to the DEA fighting its interpretation of the

1 federal regulations until such time as the DC  
2 Circuit Court of Appeals told them so.

3 MS. HENN: Objection to form.

4 MR. FARRELL: Terrible  
5 question?

6 QUESTIONS BY MR. FARRELL:

7 Q. You get the gist of what I'm  
8 asking you?

9 A. Can you ask it in a different  
10 way?

11 Q. Yeah.

12 This appears to say that  
13 McKesson does not have a duty to engage in  
14 due diligence, nor does it need to avoid  
15 filling suspicious orders.

16 Is that your position sitting  
17 here today?

18 MS. HENN: Objection to form.

19 QUESTIONS BY MR. FARRELL:

20 Q. "You can't make me," is that  
21 the position McKesson is taking?

22 MS. HENN: Objection to form.

23 QUESTIONS BY MR. FARRELL:

24 Q. I promise I'll quit if you just  
25 simply say that this position here is

1       nonsense.

2                       MS. HENN:  Objection to form.

3                       THE WITNESS:  I can say -- I  
4       can't say that it's nonsense.  I'm not  
5       sure how to answer this one  
6       specifically.

7       QUESTIONS BY MR. FARRELL:

8               Q.       Go to page Bates stamp 9.  
9       "Nothing in the federal regulations requires  
10      distributors to investigate the legitimacy of  
11      orders or to halt shipments of any orders  
12      deemed to be suspicious."

13                      Does McKesson disavow this  
14      statement or agree with it?

15                      MS. HENN:  Objection to form.

16                      THE WITNESS:  You know, I do  
17      think the language of the regulations,  
18      you know, "design and operate a system  
19      to disclose suspicious orders," gets  
20      interpreted in many different ways,  
21      and that -- and that's how different  
22      organizations, distributors, develop  
23      their program.

24      QUESTIONS BY MR. FARRELL:

25               Q.       Respectfully, that's how you

1 get fined \$150 million.

2 MS. HENN: Objection to form.

3 QUESTIONS BY MR. FARRELL:

4 Q. The next sentence: "There is  
5 no prohibition on shipment of suspicious  
6 orders."

7 That's wrong, isn't it?

8 MS. HENN: Objection to form.

9 QUESTIONS BY MR. FARRELL:

10 Q. Make it easier. Let's go to  
11 page 12.

12 "DEA's regulations had sensibly  
13 imposed a duty on distributors simply to  
14 report suspicious orders, but left it to DEA  
15 and its agents to investigate and halt  
16 suspicious orders."

17 Nonsense or not nonsense?

18 MS. HENN: Objection to form.

19 QUESTIONS BY MR. FARRELL:

20 Q. Or no comment? I'm giving you  
21 an out.

22 A. I would say no comment. I'm  
23 not sure how to answer that specifically.

24 Q. Well, the answer should be  
25 someone needs to call HDMA and figure out why

1     they're taking nonsense positions, but I'll  
2     leave that to somebody else.

3                     All right. Homestretch. Some  
4     toys. As many at this table probably know,  
5     I'm the ARCOS nerd.

6                     You're familiar with ARCOS?

7             A.       I'm familiar with what it is,  
8     yep.

9             Q.       I'm the guy that's been banging  
10    away trying to get access to ARCOS for the  
11    better part of a year and a half, and I got  
12    some.

13                    Now, what this is is the  
14    transactions by every distributor in the  
15    country between 2006 and 2014, and it's  
16    related to Cuyahoga and Summit County. Now,  
17    we also have the rest of the country, so I'm  
18    able to determine national averages, state  
19    averages and county averages for every  
20    distributor, including McKesson. But we're  
21    not going to get into all of that today  
22    because what I really need is I need the  
23    transactional data dating back to 1996. I'm  
24    missing a decade. I have '06 to 2014.

25                    Last week, July 25th, your

1 counsel provided a spreadsheet that gave us  
2 2006 to 2018. All right? So we've had it  
3 for a week. I played with it a little bit.

4 But I don't have the decade  
5 from the launch of OxyContin to 2006 yet, but  
6 I'm working on it. So one day we may come  
7 back and have to talk about this  
8 transactional data in a different context.

9 But that being said, one of the  
10 interesting things that I did was I grabbed  
11 the data provided by your counsel, and I  
12 pulled it up and took a look at it.

13 MR. FARRELL: Corey, can you  
14 pull that up?

15 QUESTIONS BY MR. FARRELL:

16 Q. Now, the first thing I want you  
17 to note is this is highly confidential.  
18 Nobody in here is allowed to talk about it  
19 outside this room.

20 And it's MCKMDL00478913.

21 MR. FARRELL: Is that right?

22 MS. HENN: I see

23 MCKMDL00478913. That may be the same.

24 QUESTIONS BY MR. FARRELL:

25 Q. Okay. Can either you or your

1 counsel confirm that this is the complete  
2 transactional data for McKesson in Cuyahoga  
3 and Summit counties between 2006 and 2018?

4 MS. HENN: Object to form.

5 Go ahead.

6 THE WITNESS: I wasn't involved  
7 in pulling it, so I can't -- without  
8 seeing, I can't confirm that it's  
9 everything.

10 MR. FARRELL: Yeah, it's really  
11 a question for your counsel, but I'm  
12 not allowed to put her under oath, so  
13 I'm hoping she'll volunteer.

14 MS. HENN: That's my  
15 understanding, but I'm not the person  
16 who is most knowledgeable about this,  
17 so you should ask one of my  
18 colleagues.

19 QUESTIONS BY MR. FARRELL:

20 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1                      Spreadsheet has up top the  
2    Bates stamp number.

3 MR. FARRELL: And, Corey, if  
4 you'll click on the letter A, it'll  
5 tell us how many transactions there  
6 are.

7 QUESTIONS BY MR. FARRELL:

A 15x15 grid of gray rectangles of varying sizes and positions, representing a sparse matrix structure. The rectangles are distributed across the grid, with some appearing as single cells and others spanning multiple rows and columns. The pattern suggests a banded or block-sparse matrix.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 MS. HENN: Objection to form.

8 QUESTIONS BY MR. FARRELL:

9 Q. Because remember, there was a  
10 period of time where there were 300,000  
11 prescriptions of OxyContin, and then -- in  
12 '96, and then by 2001 there were 6 million,  
13 right?

14 So when we get the data for the  
15 first ten years, we're going to see a  
16 progression of the number of pills being  
17 delivered. Okay?

18 So one of the things that I'm  
19 going to have you do is we're able to do some  
20 analysis with the ARCOS data.

21 MR. FARRELL: So, Corey, if  
22 you'll bring up Summit County PDF.

23 MS. HENN: Do you have a  
24 document that we can look at? No?

25 MR. FARRELL: Not yet, no.

1 QUESTIONS BY MR. FARRELL:

Government	Percentage
Current government	85%
Previous government	15%

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Response	Percentage
Yes, the U.S. should take action to protect the environment	95%
No, the U.S. should not take action to protect the environment	5%

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1 MS. HENN: Counsel, just -- I  
2 just want to interpose really quickly.  
3 We would like this in the record with  
4 an exhibit number, at least maybe the  
5 version you have. I think that's  
6 going to be necessary to understand  
7 the deposition transcript and required  
8 by the protocol.

9 MR. FARRELL: That's fair  
10 enough.

11 MS. HENN: But I don't want to  
12 interrupt you. Please continue.

13 QUESTIONS BY MR. FARRELL:

14 Q. So now what I'm going to do is  
15 I'm going to -- we're going -- --

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1                    A.        Okay.

2 Q. Maybe somebody can testify that  
3 they recall about it.

4                    A.        Yeah.

[illegible]

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

15 MR. FARRELL: Counsel?

16 MS. HENN: Again, I'm not the

17 best person to ask that question of.

18 You can ask the witness if you'd like.

19 QUESTIONS BY MR. FARRELL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

4           Q.       So you understand the position  
5       about reporting suspicious customers McKesson  
6       made to the United States District Attorney  
7       in northern West Virginia and resulted in  
8       you-all getting fined 150 million. So what  
9       I'm trying to figure out is whether or not  
10      the same systemic errors were going on for --  
11      which resulted in these pills going to  
12      Cuyahoga and Summit County.

13                   Do you see where I'm going with  
14      it?

15               MS. HENN: And, Counsel, I  
16       would just point out that he said he  
17       had a couple parts to his answer, and  
18       we need to listen to his whole answer  
19       to know what it is.

20                   Go right ahead.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

14 QUESTIONS BY MR. FARRELL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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A horizontal bar chart titled "Percentage of respondents who believe that the current government is responsible for the economic crisis in the United States". The chart displays data for 10 age groups (18-29, 30-39, 40-49, 50-59, 60-69, 70-79, 80-89, 90+, and "Don't know") and two gender categories (Male and Female). The Y-axis represents the percentage of respondents, ranging from 0% to 100% in 10% increments. The X-axis represents the percentage of respondents who believe the current government is responsible for the economic crisis. The bars are colored light blue for Male and light orange for Female. The data shows that the majority of respondents in all age groups believe the current government is responsible for the economic crisis, with the highest percentages in the 18-29 age group (around 80% for both genders) and the lowest in the 90+ age group (around 20% for both genders). The "Don't know" category shows a significantly lower percentage of respondents, around 10% for both genders.

Age Group	Male (%)	Female (%)
18-29	80	80
30-39	75	75
40-49	70	70
50-59	65	65
60-69	60	60
70-79	55	55
80-89	50	50
90+	20	20
Don't know	10	10

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6 QUESTIONS BY MR. FARRELL:

7 Q. Do you agree that one of the  
8 foreseeable harms of engaging in unlawful  
9 conduct in the distribution of prescription  
10 opioids is diversion?

11 MS. HENN: Objection. Form.

12 THE WITNESS: Could you ask  
13 that again?

14 QUESTIONS BY MR. FARRELL:

15 Q. One of the harms --

16 A. You said foreseeable first, but  
17 harms --

18 Q. I'll go back and do it.

19 Do you agree that one of the  
20 foreseeable harms of engaging in unlawful  
21 conduct in the distribution of prescription  
22 opioids is diversion?

23 MS. HENN: Objection to form.

24 THE WITNESS: I think it can  
25 be.

1 QUESTIONS BY MR. FARRELL:

2 Q. Do you agree that filling  
3 suspicious orders is a direct and proximate  
4 cause of prescription opioid abuse,  
5 addiction, morbidity and mortality?

6 MS. HENN: Objection to form.

7 THE WITNESS: Filling specific  
8 orders?

9 MS. HENN: Suspicious orders is  
10 the word he used.

11 THE WITNESS: Suspicious  
12 orders.

13 There's a lot of reasons for --  
14 that orders may get flagged as  
15 suspicious, so I think it depends.

16 QUESTIONS BY MR. FARRELL:

17 Q. That's fair.

18 A. They'll get flagged as an order  
19 of unusual size, frequency or pattern and not  
20 mean that it's suspicious or  
21 diversion-related.

22 Q. Do you believe the prescription  
23 opiate epidemic is an immediate hazard to  
24 public health and safety?

25 MS. HENN: Objection to form.

1 THE WITNESS: How do you -- how  
2 are you defining "immediate hazard"?

3 QUESTIONS BY MR. FARRELL:

4 Q. A hazard.

5 A. A hazard?

6 Sure.

7 MR. FARRELL: Okay. We will  
8 adjourn with the reservation of rights  
9 for one day, continuing the subject  
10 matters that most interest the  
11 plaintiffs in the MDL in the 30(b)(6)  
12 notices.

13 MS. HENN: And, I mean, we will  
14 object to continuing past the limit  
15 set by the Court. We feel that there  
16 was a lot of time today that was spent  
17 asking legal questions that could have  
18 been spent on topics.

19 MR. FARRELL: There was also a  
20 lot of time spent reading documents  
21 that were listed in my 30(b)(6).

22 MS. HENN: Documents that you  
23 put in front of the witness and wanted  
24 him to read.

25 But more importantly, I wanted

1           to ask the court reporter to please  
2           designate this transcript  
3           provisionally highly confidential,  
4           which is required under the deposition  
5           protocol, and I also wanted to reserve  
6           the right to read and sign.

7                     I have no questions, and so I  
8           think we are finished.

9                     VIDEOGRAPHER: Okay. The time  
10          is 5:47 p.m., July 31, 2018. Going  
11          off the record completing today's  
12          videotaped session.

13                    (McKesson-Hartle Exhibit 40  
14          marked for identification.)

15          (Deposition concluded at 5:47 p.m.)

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CERTIFICATE

I, CARRIE A. CAMPBELL, Registered  
Diplomate Reporter, Certified Realtime  
Reporter and Certified Shorthand Reporter, do  
hereby certify that prior to the commencement  
of the examination, Nathan J. Hartle was duly  
sworn by me to testify to the truth, the  
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the  
foregoing is a verbatim transcript of the  
testimony as taken stenographically by and  
before me at the time, place and on the date  
hereinbefore set forth, to the best of my  
ability.

I DO FURTHER CERTIFY that I am  
neither a relative nor employee nor attorney  
nor counsel of any of the parties to this  
action, and that I am neither a relative nor  
employee of such attorney or counsel, and  
that I am not financially interested in the  
action.

---

CARRIE A. CAMPBELL,  
NCRA Registered Diplomate Reporter  
Certified Realtime Reporter  
California Certified Shorthand  
Reporter #13921  
Missouri Certified Court Reporter #859  
Illinois Certified Shorthand Reporter  
#084-004229  
Texas Certified Shorthand Reporter #9328  
Kansas Certified Court Reporter #1715  
Notary Public  
Dated: August 3, 2018

1 INSTRUCTIONS TO WITNESS

2

3 Please read your deposition over  
4 carefully and make any necessary corrections.  
5 You should state the reason in the  
6 appropriate space on the errata sheet for any  
7 corrections that are made.

8 After doing so, please sign the  
9 errata sheet and date it. You are signing  
10 same subject to the changes you have noted on  
11 the errata sheet, which will be attached to  
12 your deposition.

13 It is imperative that you return  
14 the original errata sheet to the deposing  
15 attorney within thirty (30) days of receipt  
16 of the deposition transcript by you. If you  
17 fail to do so, the deposition transcript may  
18 be deemed to be accurate and may be used in  
19 court.

20

21

22

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25

ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
hereby certify that I have read the foregoing  
pages and that the same is a correct  
transcription of the answers given by me to  
the questions therein propounded, except for  
the corrections or changes in form or  
substance, if any, noted in the attached  
Errata Sheet.

\_\_\_\_\_  
Nathan J. Hartle

\_\_\_\_\_  
DATE

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

My commission expires: \_\_\_\_\_

Notary Public

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18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____
21	_____	_____	_____
22	_____	_____	_____
23	_____	_____	_____
24	_____	_____	_____
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